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**Impact of the Constitution (74th Amendment) Act
on the Working of Urban Local Bodies**

Volume I
Consolidated Report
(Revised)

Study conducted by the

Indian Institute of Public Administration, New Delhi
National Institute of Urban Affairs, New Delhi
Regional Centre for Urban and Environmental Studies, Hyderabad
Regional Centre for Urban and Environmental Studies, Mumbai

For the
Ministry of Urban Development, Government of India

Prepared by the

National Institute of Urban Affairs
New Delhi



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ABBREVIATIONS

ATR	Action Taken Report
BC	Backward Class
BPL	Below Poverty Line
CAA	Constitution Amendment Act
CFC	Central Finance Commission
CBO	Community-based Organisation
DPC	District Planning Committee
GOI	Government of India
IIPA	Indian Institute of Public Administration
MLC	Member of Legislative Council
MLA	Member of Legislative Assembly
MP	Member of Parliament
MPC	Metropolitan Planning Committee
MUD	Ministry of Urban Development
MCD	Municipal Corporation of Delhi
NIUA	National Institute of Urban Affairs
NDMC	New Delhi Municipal Council
NGO	Non-government Organisation
PHED	Public Health Engineering Department
PPP	Public Private Partnership
PRI	Panchayati Raj Institution
PWD	Public Works Department
RCUES	Regional Centre for Urban and Environmental Studies
SC	Scheduled Caste
SFC	State Finance Commission
ST	Scheduled Tribe
TOR	Terms of Reference
TCPO	Town and Country Planning Organisation
UT	Union Territory
ULB	Urban Local Body
WC	Wards Committee

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EXECUTIVE SUMMARY

Urban local bodies/municipalities play an important role in the planning and development of urban areas. However, most studies undertaken to assess the functioning of municipalities in India point out that the performance of municipalities in the discharge of their duties has continued to deteriorate over time. It is noted that municipalities in India are confronted with a number of problems, such as inefficiency in the conduct of business, ineffective participation by the weaker sections of the population in local governance, weak financial condition, lack of transparency in the planning and implementation of projects, etc., which affect their performance adversely.

An important initiative of the Government of India to strengthen municipal governance is the enactment of the Constitution (74th Amendment) Act (CAA) in 1992. Until the recent amendment, local governments in India were organised on the basis of the '*ultra vires*' principle [beyond the powers or authority granted by law] and the state governments were free to extend or control the functional sphere through executive decisions without an amendment to the legislative provisions. Through this initiative, an attempt is being made to improve the performance ability of municipalities, so that they are able to discharge their duties efficiently.

The important provisions specified in the Act include constitution of three types of municipalities, devolution of greater functional responsibilities and financial powers to municipalities, adequate representation of weaker sections and women in municipalities, regular and fair conduct of municipal elections, and constitution of Wards Committees, District Planning Committees, Metropolitan Planning Committees and State Finance Commissions.

The Constitution (74th Amendment) Act, 1992 provisions, thus, provide a basis for the State Legislatures to guide the State Governments in the assignment of

various responsibilities to municipalities and to strengthen municipal governance. Accordingly, several State Governments have amended their Municipal Acts/Laws/Legislations so as to bring these in conformity with the Constitutional Provisions.

Interestingly, a review of literature reveals that till date a systematic attempt to assess the impact of the 74th Amendment Act provisions on the working of municipalities has not been undertaken at the all-India level. The literature review further shows that piece-meal studies have been undertaken on the subject after the enactment of the Act. It is also learnt that the municipalities are confronted with a number of problems, despite the amendments in the State Municipal Acts and the implementation of the 74th CAA provisions. For instance, in several States, there exists a problem of ineffective participation in the decision-making process despite adoption of the policy of reservation, delays in the transfer of funds to the municipalities despite constitution of State Finance Commissions, poor recovery from various tax and non-tax sources despite devolution of powers, etc. It is further learnt that there is an influence of various social, economic and political factors on the functioning of municipalities in India. Considering these local-level issues of governance as relevant, it is essential to examine the impact of the Constitution (74th Amendment) Act in different states of India.

In this study, the impact of the 74th CAA is assessed for a total of twenty-seven States and one Union Territory (UT) of India. The state of Jammu and Kashmir was not included in the study. The National Capital Territory of Delhi, which is classified as a Union Territory by the 2001 Census of India, has been covered in this study.

The main problem faced in assessing the impact of the 74th Amendment Act was the non-availability of data on some aspects of the 74th Amendment Act provisions. This problem was noted especially in the case of most north-eastern

states and the newly created states of Chhatisgarh, Jharkhand and Uttaranchal. There are a number of states where desegregated data on the number of male and female councilors/chairpersons belonging to SC, ST, BC and general category are not maintained properly. Similarly, adequate information is not maintained on the devolution of functional responsibilities and financial powers to ULBs.

The analysis of the data collected throws light on the performance of different state governments on the compliance/implementation of the Act provisions.

Table 1 given below tabulates the state-wise compliance of the 74th Amendment Act provisions. It may be noted that some important provisions of the Act have been included in the table. These are: constitution of ULBs; reservation of seats in ULBs, regular conduct of elections, constitution of WCs, DPCs, MPCs and SFCs. Some other important provisions, such as devolution of powers and functions to ULBs, have not been included in the table due to a lack of adequate information. The information provided in the Table shows that some states have performed better than others. An important observation is that while there has been full compliance in respect of provisions, such as constitution of three types of ULBs, reservation of seats, and constitution of SFCs, the same cannot be said for other provisions, namely constitution of Wards Committees, District Planning Committees and Metropolitan Planning Committees. It may be stated that the state of West Bengal has shown full commitment and a high compliance of the provisions.

Furthermore, urban local governments now comprise of persons with diverse backgrounds, namely the elected members (such as the Mayor, President and Councillors, who are representatives of citizens), the nominated members (who are selected by the state government from amongst persons having special knowledge or experience in municipal administration) and the ex-officio members (such as the MPs and the MLAs, who are responsible for spending funds

received from the government on various development works within their constituency). Moreover, seats in urban local governments have been reserved (for the posts of Mayor, President and Councillors) for persons belonging to the scheduled caste, scheduled tribe, backward class and women categories. By introducing these changes in the composition of urban local governments, the main objective of the government is to create a representative government at the local level, which is capable of addressing the needs of all sections of the society.

Table 1: State-wise Compliance of the 74th Amendment Act Provisions

S. No.	State/UT	Constitution of ULBs	Reservation of Seats	Regular Conduct of Elections	Constitution of WCs	Constitution of DPCs	Constitution of MPCs	Constitution of SFCs
1	Andhra Pradesh	✓	✓	✓	✓			✓
2	Arunachal Pradesh#					✓		✓
3	Assam	✓	✓	✓		✓		✓
4	Bihar	✓	✓	✓		✓		✓
5	Chhatisgarh	✓	✓		✓	✓		✓
6	Delhi	✓	✓	✓	✓			✓
7	Goa	✓	✓	✓				✓
8	Gujarat	✓	✓	✓				✓
9	Haryana	✓	✓	✓		✓		✓
10	Himachal Pradesh	✓	✓	✓				✓
11	Jharkhand	✓	✓					✓
12	Karnataka	✓	✓	✓	✓	✓		✓
13	Kerala	✓	✓	✓	✓	✓		✓
14	Madhya Pradesh	✓	✓	✓	✓	✓		✓
15	Maharashtra	✓	✓	✓	✓			✓
16	Manipur	✓	✓	✓				✓
17	Meghalaya @							
18	Mizoram @ #							
19	Nagaland @							
20	Orissa	✓	✓	✓		✓		✓
21	Punjab	✓	✓	✓				✓
22	Rajasthan	✓	✓	✓		✓		✓
23	Sikkim #							✓
24	Tamil Nadu	✓	✓	✓	✓	✓		✓
25	Tripura	✓	✓	✓				✓
26	Uttaranchal	✓	✓	✓				✓
27	Uttar Pradesh	✓	✓	✓				✓
28	West Bengal	✓	✓	✓	✓	✓	✓	✓

Notes:

1. # - There are no municipalities in the state.
2. @ - The 74th Amendment Act provisions have not been applied to certain Scheduled Areas and the Tribal Areas of India.
3. Status of information provided in the table is based on data collected over a period of time (i.e., during the year 2004 and up to August 2005 and may therefore not tally with the latest position in the different states of the country.

Empowerment of municipalities through functional devolution is an important objective of the 74th CAA. The Twelfth Schedule of the 74th CAA, which consists of a list of 18 functions, has been inserted to guide state governments in the assignment of various functional responsibilities to municipalities. In response, most state governments have included the 18 functions in the list of duties to be performed by municipalities. Activity mapping of the 18 functions among the three tiers of municipalities is currently underway (i.e., a number of activities have been identified within each function and actions are being taken for implementation). This analysis shows that some functions have been transferred to the municipalities and are being performed by them in consultation with the respective state government departments. In a few states (for example, Uttar Pradesh and West Bengal), some functions listed in the Twelfth Schedule (such as town planning, urban poverty alleviation, provision of urban amenities, vital statistics, etc.) were already being performed by the municipalities before the enactment of the 74th CAA.

The analysis on the functioning of State Finance Commissions in different states of the country reveals that although the major thrust is given on strengthening the financial condition of municipalities, there is also an emphasis on improving their overall management capabilities. Further, the action taken reports prepared to assess the status of SFC recommendations show that the proportion of recommendations accepted (either fully, partly or in a modified form) is much higher than those which have not been accepted. Decisions to accept or reject a recommendation lies with the state government and is based on a number of factors, such as the financial condition of the state/local government, priority areas of concern, etc.

The major findings of the study are listed below:

- The total number of ULBs in 27 states and one UT of India is 3013. Uttar Pradesh has the highest number of ULBs, i.e., 628, followed by Madhya Pradesh (334), Maharashtra (247), Karnataka (222), etc. Among the states,

the total number of ULBs is the lowest in Tripura, i.e., 13. Municipal corporations exist in all states except in Manipur and Tripura (see Table 2.1). The total number of Municipal Corporations, Municipal Councils and Nagar Panchayats in the states/UT under study is 111, 1537 and 1365 respectively. Maharashtra has the highest number of corporations, i.e., 22, which is followed by Madhya Pradesh (14) and Uttar Pradesh (12). Data on municipal councils show that their numbers are high in Maharashtra, Uttar Pradesh, Tamil Nadu, Gujarat, Karnataka, West Bengal and Andhra Pradesh. The number of nagar panchayats is high in Uttar Pradesh, Madhya Pradesh and Rajasthan.

- It is obvious that the number of councilors in the three types of ULBs is high in the larger states of the country. The data confirm the fact that seats have been reserved for some sections of the society (i.e. SC, ST, BC, women) in municipalities throughout India. State-wise data on councilors show that: in municipal corporations, total number is high in Maharashtra, Uttar Pradesh, and Madhya Pradesh; in municipal councils, total number is high in Maharashtra, Uttar Pradesh and Tamil Nadu; and in nagar panchayats, the total number is high in Uttar Pradesh, Madhya Pradesh, Bihar and Karnataka (see Table 2.2).
- The state governments have amended their municipal Acts as per guidelines given in Article 243 – T of the 74th Amendment Act and provided for reservation for the scheduled castes, scheduled tribes, and women in ULBs. In the states of Assam, Bihar, Jharkhand, Uttaranchal and Uttar Pradesh, seats have also been reserved for the backward classes.
- The elected heads (Mayor in Corporations and Chairman in Councils) are chosen in two ways – (a) elected from amongst the councilors (i.e., indirect election); and (b) elected from amongst eligible voters in the urban area (i.e., direct election). In the Corporations of Bihar and West Bengal, Mayor is elected from amongst the councillors. In Jharkhand, Uttaranchal, and Uttar Pradesh, the Mayor is chosen by direct election. Similarly, in municipal councils of Assam, Bihar, Manipur, Sikkim, Tripura and West Bengal, the

- chairman is elected from amongst the councillors. The chairman is chosen by direct election in Uttaranchal and Uttar Pradesh. Councillors in the two types of ULBs are chosen by direct election (see Table 2.4).
- Except the states of Chhatisgarh and Jharkhand, elections to municipalities in the other states are being conducted regularly. In the large states (such as Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Rajasthan, etc.), elections are held in stages due to a large number of ULBs. Elections are also conducted as and when a local body is constituted. For example in Bihar, elections were conducted in three newly constituted Nagar Panchayats during the year 2005 (see Table 2.5).
 - A review of relevant sections pertaining to the duties of Municipal Corporations and Municipal Councils given in the Municipal Acts of states under study shows that the 18 functions given in the twelfth schedule have been included in the list of duties of ULBs. Furthermore, activity mapping of the 18 functions among the three tiers of ULBs is currently underway, i.e., a number of activities have been identified within each function and actions are being taken for implementation. Some functions have been transferred to the ULBs and are being performed by them in consultation with the respective state government departments. Some other functions are being performed exclusively by the concerned state department (see Table 2.6). It is also learnt that in some states (for example Uttar Pradesh and West Bengal), some functions listed in the twelfth schedule (such as town planning, urban poverty alleviation, provision of urban amenities, vital statistics, etc.) were already being performed by the ULBs before the enactment of the 74th Amendment Act.
 - A review of Municipal Acts of the states under study shows that the ULBs were already empowered to levy various taxes, fees and tolls before the enactment of the 74th Amendment Act (see Table 2.7 and 2.8).
 - The Municipal Acts of the states under study show that provisions related to the constitution of WCs have been incorporated. It is also learnt that rules for the constitution, composition and functioning of wards committees have been

formed by the state legislatures of Uttar Pradesh and West Bengal. Available data show that WCs have been constituted in a total of 8 states and one UT of India. These include Andhra Pradesh, Chhatisgarh, Delhi, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Tamil Nadu and West Bengal. Generally, members of WCs comprise the elected ward representatives (i.e., councillors) and nominated members. In the states of Karnataka, Kerala, and Maharashtra, a higher level of participation is observed, where members of NGOs, CBOs, neighbourhood groups, heads of educational institutions, persons from agriculture, industry, health, trade unions, etc., have also been associated. On the other hand, the deputy commissioner is the head of the executive wing of the WCs. WCs have been assigned several responsibilities, such as maintenance of civic services, revenue collection/assistance in tax collection, drafting of annual budget, slum improvement, public grievances, formulation and execution of development schemes, monitoring the implementation of development programmes, recommendations on proposals regarding estimates of expenditure, granting approval and financial sanction to plans and municipal works, scrutiny of monthly progress report, etc. Some information is available on the functioning of wards committees in different states of India. It is learnt that in the southern states, they are functional in Tamil Nadu and in Kerala. In Andhra Pradesh and Karnataka, they are practically not functional except in Hyderabad and in Bangalore municipal corporations. In the case of Bangalore, it is further learnt that they are neither meeting regularly, nor working effectively. It may be stated that Kerala is a unique example, where WCs have been constituted in every ward and in towns with a population of more than a lakh. In the case of Chhatisgarh, it is learnt that although WCs have been constituted in Raipur Municipal Corporation, no responsibilities have been assigned to them and no budgetary allocation is being given. In fact, they are completely non-functional.

- In response to the 74th Amendment Act provisions, SFCs have been constituted in all states under study except the three north-eastern states of

Meghalaya, Mizoram and Nagaland (see Table 2.10). This is due to the reason that Article 243 – ZC of the 74th Amendment Act and Article 243 – M (2) of the 73rd Amendment Act do not allow state governments to apply Part IX (The Panchayats) and Part IX – A (The Municipalities) to certain scheduled areas and the tribal areas of the country. It may be stated that although the major thrust is given by SFCs on strengthening the financial condition of ULBs, there is also an emphasis on improving their overall management capabilities. It is observed from a review of both the first and the second ATRs that the proportion of recommendations accepted (either fully, partly or in a modified form) is much higher than those which have not been accepted (see Table 2.12). It may be mentioned here that the decision to accept or reject a recommendation lies with the state government and is based on a number of factors, such as the financial condition of the state/local government, priority areas of concern, etc. The data given in Table 2.12 show that acceptance of first SFC recommendations is between 80 to 100 per cent in Tripura, Uttaranchal, Uttar Pradesh and West Bengal and less than 50 per cent in Assam and Orissa.

- DPCs have been constituted in a total of 12 states of India (Table 2.14). These include Arunachal Pradesh, Assam, Bihar, Chhatisgarh, Haryana, Karnataka, Kerala, Madhya Pradesh, Orissa, Rajasthan, Tamil Nadu and West Bengal. The members of DPCs vary among the states. They generally comprise the minister-in-charge of district, mayor of corporation, chairperson of council, chairperson of zilla parishad/panchayat, elected members of local bodies (both rural and urban), special invitee members (i.e., MPs, MLAs, MLCs), nominated members, divisional commissioner, deputy commissioner, additional deputy commissioner, district collector, district planning officer, district statistical officer, etc. Insofar as the functioning of DPCs is concerned, it is understood that in Karnataka, Kerala and Tamil Nadu, DPCs have been constituted and technically they are functioning. However, it is learnt that in Karnataka they have not been functioning as expected. In fact, Kerala is the only state in the south where DPCs are active and functional. In the case of

Madhya Pradesh, it is learnt that the DPC has no executive powers. In Chhatisgarh, the DPCs are not functioning at all and no meetings of DPCs are being held.

- MPC has been constituted only in the state of West Bengal (Table 2.15). The Kolkata metropolitan planning committee (KMPC) comprises 60 members, including the chief minister of state, minister-in-charge of municipal affairs and urban development, elected members of local bodies and nominated members. Of the 60 members, 2/3 members are elected and 1/3 are nominated. Chief Minister of the state is the Chairman of KMC and the Minister-in-charge of Municipal Affairs and Urban Development Department of the state is the Vice-Chairman. Kolkata Metropolitan Development Authority (KMDA) is the technical secretariat of KMPC and Secretary, KMDA is the Secretary of KMPC.
- In most states reforms have been suggested to overcome the problems faced by ULBs. These include financial reforms (including property tax, accounting – double entry, issuance of bonds, rationalisation of stamp duty, levy of reasonable user charges); private sector participation in service delivery, contracting of services, computerisation of municipal records, training and capacity building, etc. (see Table 2.16).

1 INTRODUCTION

Urban local bodies/municipalities are instituted under State legislation to provide basic civic amenities like water supply, sewerage, transport, health, sanitation, recreation, etc., and to carry out the programmes of national development. Their responsibilities have increased over time due to growing urban problems.

Available literature on the functioning of municipalities in India indicates that their performance in the discharge of duties has continued to deteriorate over time. This is due to the presence of a number of problems, such as inefficiency in administration, ineffective participation by the weaker sections of the population in local governance, weak financial condition, lack of transparency in the planning and implementation of projects, etc.

To overcome the problems of local governance in urban areas, the Government of India enacted the Constitution (74th Amendment) Act (CAA) in 1992. Until this amendment, local governments in India were organised on the basis of the '*ultra vires*' principle [beyond the powers or authority granted by law] and the state governments were free to extend or control the functional sphere through executive decisions without an amendment to the legislative provisions. It is envisaged that the proposed legislative reforms for municipalities would empower them appropriately and guide them effectively in controlling the deteriorating state of affairs in urban areas of the country.

With the enactment of the Constitution (74th Amendment) Act, the municipalities in India have acquired constitutional status for the first time, since their constitution. The important provisions specified in the Act relate to: constitution of three types of municipalities; devolution of greater functional responsibilities and financial powers to municipalities; adequate representation of weaker sections

and women in municipalities; regular and fair conduct of municipal elections; constitution of State Finance Commissions (SFC); and constitution of Wards Committees (WC), District Planning Committees (DPC) and Metropolitan Planning Committees (MPC) [see Box 1.1 and Annexure 1 given in this report].

Box 1.1: Constitution (74th Amendment) Act Provisions

- Constitution of **Municipalities** (namely, Municipal Corporation, Municipal Council, Nagar Panchayat) in every Indian State;
- Constitution of **Wards Committees** within the territorial area of a municipality, to ensure people's participation in civic affairs at the grass-roots level;
- Regular and fair conduct of municipal **Elections** by statutorily constituted State Election Commissions; no provision for super session of municipal governments for more than 6 months;
- Adequate representation of weaker sections (Scheduled Caste, Scheduled Tribe, Backward Class) and women in municipal governments through **reservation** of seats;
- Specification by law, through the State Legislatures, of the **powers** (including financial) and **functional responsibilities** to be entrusted to municipalities and wards committees;
- Constitution of **State Finance Commissions**, once in every 5 years, to review the financial position of municipalities and to make recommendations on the measures needed to improve their financial position;
- Constitution of a **District Planning Committee** at the district level and a **Metropolitan Planning Committee** in metropolitan areas of every State, for the preparation and consolidation of development plans.

Source: *Constitutional Provisions*, 1999.

The Constitution (74th Amendment) Act, 1992 provisions, thus, provide a basis for the State Legislatures to guide the State Governments in the assignment of various responsibilities to municipalities and to strengthen municipal governance. As a response to the legal reforms, several State Governments have amended their Municipal Acts/Laws/Legislations so as to bring these in conformity with the Constitutional Provisions.

1.1 PURPOSE OF THE STUDY

A review of literature on recent urban governance reforms in India reveals that till date a systematic attempt to assess the impact of the 74th Amendment Act provisions on the working of municipalities has not been undertaken. The literature survey further shows that piece-meal studies have been conducted on the subject after the amendments in various state municipal Acts. It is learnt that

municipalities in India are confronted with a number of problems, despite the amendments in the State Municipal Acts and the implementation of the 74th CAA provisions. For instance, in several States, there exists a problem of ineffective participation in the decision-making process despite reservation of seats in municipalities, delays in the transfer of funds to the municipalities despite constitution of State Finance Commissions, poor recovery from various tax and non-tax sources despite devolution of powers, etc. Considering the importance of this subject, an attempt is made to examine the impact of the Constitution (74th Amendment) Act in various states of India.

1.2 OBJECTIVES OF THE STUDY

The objectives of the study are as follows:

- i. Review the current state of implementation of various mandatory and discretionary provisions of the Constitution (74th Amendment) Act;
- ii. Number of urban local bodies (ULBs) in each State along with their names;
- iii. Number of councillors, number of women councillors, number of councillors belonging to Scheduled Caste (SC), Scheduled Tribe (ST), Backward Classes (BC);
- iv. Number of SC/ST chairpersons;
- v. Level of devolution of functional and financial powers to ULBs;
- vi. Compilation of functional powers with reference to functions given in the 12th Schedule and other functions not included in the 12th Schedule (separate for Municipal Councils and Municipal Corporations);
- vii. Compilation of financial powers devolved upon ULBs (separate for Municipal Councils and Municipal Corporations);
- viii. Examine the functioning of wards committees; their composition and functions;
- ix. Examine the constitution and functioning of the State Finance Commissions (SFCs) and compilation of recommendations of first SFC

- and second SFC, acceptance and implementation by the State Governments;
- x. Examine the functioning of District Planning Committees (DPCs) and Metropolitan Planning Committees (MPCs) along with their functions and composition;
 - xi. Identify the areas for further reforms and improvement.

1.3 DATA BASE AND METHODOLOGY

In this study, the impact of the 74th CAA on the working of ULBs is assessed for a total of twenty-seven States and one Union Territory (UT) of India. The state of Jammu and Kashmir has not been covered in this study. The National Capital Territory of Delhi, which is classified as a Union Territory by the 2001 Census of India, has been covered in this study.

Four research institutions have collected the data for this study. These are: (i) Indian Institute of Public Administration (IIPA), New Delhi; (ii) National Institute of Urban Affairs (NIUA), New Delhi; (iii); Regional Centre for Urban and Environmental Studies (RCUES), Hyderabad; and (iv) Regional Centre for Urban and Environmental Studies (RCUES), Mumbai. It may be noted that IIPA has covered three states and one UT, NIUA has covered fourteen states including the north-eastern states, RCUES, Hyderabad has covered four states and RCUES, Mumbai has covered six states (Table 1.1).

In the preparation of this consolidated report, data/information collected by the above-mentioned four institutions have been used. Data for the study have been collected by administering a structured schedule/questionnaire. Questions included in the schedule relate to the constitution and composition of municipalities, reservation of seats in municipalities, elections to municipalities, devolution of functional responsibilities and financial powers to municipalities, constitution and functioning of SFCs, Wards Committees, MPCs and DPCs. In addition, some questions on training of municipal officials/elected members,

incentives to elected members, financial performance of municipalities and the recent urban sector reforms introduced in the State, have also been included in order to develop a better understanding on the impact of the 74th Amendment Act provisions.

Table 1.1: Institution-wise States Covered in this Study

S. No.	Name of Institution	Name of States Covered
1	Indian Institute of Public Administration, New Delhi	<ul style="list-style-type: none"> • Haryana • Himachal Pradesh • Punjab • Delhi
2	National Institute of Urban Affairs, New Delhi	<ul style="list-style-type: none"> • Bihar • Jharkhand • Orissa • Uttaranchal • Uttar Pradesh • West Bengal • Arunachal Pradesh • Assam • Manipur • Meghalaya • Mizoram • Nagaland • Sikkim • Tripura
3	Regional Centre for Urban and Environmental Studies, Hyderabad	<ul style="list-style-type: none"> • Andhra Pradesh • Karnataka • Kerala • Tamil Nadu
4	Regional Centre for Urban and Environmental Studies, Mumbai	<ul style="list-style-type: none"> • Chhatisgarh • Goa • Gujarat • Madhya Pradesh • Maharashtra • Rajasthan

Field visits have been undertaken by project team members of different institutions, during which officials from select state government departments have been contacted. The required information for the study has been collected both through discussions with the identified group of respondents and from secondary sources. The State Urban Development Department, the Municipal Administration Department, and the State Directorate of Local Bodies are the main sources of information for this study. Data are also obtained from secondary sources such as the State Municipal Acts, State Finance Commission Reports, Action Taken Reports, and the state government notifications issued from time to time in respect of the provisions of the 74th CAA.

The project team of each institution has compiled information as per the terms of reference of this study provided to them by the Ministry of Urban Development. After a careful assessment of all the available data/information provided in the reports prepared by the four institutions (see references at the end of this report) and submitted to NIUA by the Ministry in April 2005, a table has been prepared to take stock of the status of data, i.e., its availability and non-availability. The picture that emerges from this exercise is presented in Table 1.2. It may be mentioned here that the data provided in this report have been collected by project team members of different institutions during the period 2004-05 (i.e. up to August 2005).

It may be noted from the table that the status of data is provided on 9 items only. All of these items relate to the 11 objectives of the study. Objective 1 of the study pertains to a 'review of the current stage of implementation of various mandatory and discretionary provisions of the 74th CAA'. This has not been included in the above table due to the fact that this is the main aim of the study. An understanding on this objective can be developed only after an assessment of the 9 items listed in the above table. Similarly, Objective 5 of the study, which pertains to the 'level of devolution of functional and financial powers to ULBs', has not been included in the above table. An understanding on Objective 5 can be developed only after Objectives 6 and 7 (which pertain to functional and financial powers of ULBs) are analysed.

1.4 LIMITATIONS OF THE STUDY

Every study has certain limitations. The main problem faced in assessing the impact of the 74th Amendment Act was the non-availability of data on some aspects of the 74th Amendment Act provisions. This problem was noted especially in the case of most north-eastern states and the newly created states of Chhatisgarh, Jharkhand and Uttaranchal. Some of the important observations in this regard are described below:

- (i) Desegregated data on the number of male and female councillors/chairpersons belonging to SC, ST, BC and general category are not available.
- (ii) Adequate information is not available on the devolution of functional responsibilities and financial powers to ULBs.
- (iii) The implementation status of SFC recommendations is not clearly described in the Action Taken Reports.

Table 1.2: Items on which Data have been collected by the Four Institutions for this Study

S. No.	State/UT	No. of ULBs & names of ULBs	No. of councillors – women, SC, ST, BC	No. of Chairpersons – SC, ST	Compilation of Functional Powers/ status of 18 functions	Compilation of Financial Powers	Wards Committees	SFCs	DPCs and MPCs	Reforms
		1	2	3	4	5	6	7	8	9
1	Andhra P.	✓	✓	✓	✓	✓	✓	✓	✓	✓
2	Arunachal P.#							✓	✓	N.A.
3	Assam	✓	✓	N.A.	✓	✓	✓	✓	✓	✓
4	Bihar	✓	✓	N.A.	✓	✓	✓	✓	✓	✓
5	Chhatisgarh	✓	✓	N.A.	✓ \$	✓ \$	✓	✓	✓	✓
6	Delhi	✓	✓	N.A.	✓	N.A.	✓	✓	✓	✓
7	Goa	✓	N.A.	N.A.	✓	✓	✓	✓	✓	✓
8	Gujarat	✓	✓	N.A.	✓	✓	✓	✓	✓	✓
9	Haryana	✓	✓	✓	N.A.	N.A.	✓	✓	✓	✓
10	Himachal P.	✓	✓	N.A.	✓	N.A.	✓	✓	✓	✓
11	Jharkhand	✓	N.A.	N.A.	\$	\$	✓	✓	✓	N.A.
12	Karnataka	✓	✓	✓	✓	✓	✓	✓	✓	✓
13	Kerala	✓	✓	✓	✓	✓	✓	✓	✓	✓
14	Madhya P.	✓	✓	N.A.	✓	✓	✓	✓	✓	✓
15	Maharashtra	✓	✓	N.A.	✓	✓	✓	✓	✓	✓
16	Manipur	✓	N.A.	N.A.	✓	✓	N.A.	✓	✓	N.A.
17	Meghalaya @									
18	Mizoram @ #									
19	Nagaland @	✓			✓	✓				
20	Orissa	✓	✓	✓	N.A.	N.A.	✓	✓	✓	✓
21	Punjab	✓	✓	✓	✓	N.A.	✓	✓	✓	✓
22	Rajasthan	✓	✓	N.A.	✓	✓	✓	✓	✓	✓
23	Sikkim #				✓	✓		✓	✓	N.A.
24	Tamil Nadu	✓	✓	✓	✓	✓	✓	✓	✓	✓
25	Tripura	✓	✓	✓	✓	✓	✓	✓	✓	✓
26	Uttaranchal	✓	✓	✓	\$	\$	✓	✓	✓	✓
27	Uttar Pradesh	✓	✓	N.A.	✓	✓	N.A.	✓	✓	✓
28	West Bengal	✓	✓	N.A.	✓	✓	✓	✓	✓	✓

Notes:

1. Tick mark in the table indicates that relevant information on various provisions of the 74th CAA as collected by the four institutions is provided in this report (Vol. I) and/or in the Annexures (Vol./Part II).
2. # - There are no municipalities in the State.
3. @ - 74th Amendment Act Provisions are not applicable to some Scheduled Areas and Tribal Areas of India under Article 243-ZC and Article 243-M (2) of the Constitution.
4. N.A. – Data Not Available.
5. \$ - State Municipal Acts of Bihar, Madhya Pradesh and Uttar Pradesh are applicable to the newly created states of Jharkhand, Chhatisgarh and Uttaranchal respectively.

1.5 ORGANISATION OF THE REPORT

This is a consolidated report, which has been prepared by using data collected by four research institutions, namely IIPA (New Delhi), NIUA (New Delhi), RCUES (Hyderabad), and RCUES (Lucknow). The main purpose of preparing this report in a consolidated manner is to systematically compile and analyse all the collected information on the different states of the country and address the main aim of this study, i.e., review the current stage of implementation of various mandatory and discretionary provisions of the 74th CAA.

The information compiled and analysed in this study is presented in two volumes/parts. In the first volume, there are three chapters, namely (i) Introduction; (ii) Impact of the Constitution (74th Amendment) Act Provisions; and (iii) Summary and Conclusions. The introductory chapter contains information on the purpose, objectives, data base, methodology and limitations of the study. In the second chapter, the status of various provisions of the 74th CAA in different states of India is described. The major findings of the study are presented in the concluding chapter. The second volume/part on 'annexures' contains detailed state-wise information on the various mandatory and discretionary provisions of the 74th CAA. This information has been obtained from the reports prepared by the institutions involved in the conduct of this study and from various State Municipal Acts.

2 IMPACT OF THE CONSTITUTION (74th AMENDMENT) ACT PROVISIONS

With the enactment of the 74th Amendment Act by the Government of India in 1992, most state governments have taken significant steps towards implementation of the Act provisions. In this chapter, state-wise information on the status of the following aspects related to the Constitution (74th Amendment) Act is presented: (a) number of ULBs; (b) number of councillors, number of women councillors, number of councillors belonging to SC/ST/BC category; (c) number of SC/ST chairpersons; (d) elections to municipalities; (e) level of devolution of functional and financial powers to ULBs; (f) functioning of wards committees; (g) functioning of SFCs; (h) functioning of DPCs and MPCs; and (i) areas for further reforms and improvement.

2.1 NUMBER OF URBAN LOCAL BODIES IN EACH STATE ALONG WITH THEIR NAMES

Table 2.1 given below and Annexure 2 (see Volume/Part II – A of the report) provide state-wise information on the number of urban local bodies (ULBs) by type and their names.

The data show that there are a total of 3013 ULBs in 27 states and one UT of India. Uttar Pradesh has the highest number of ULBs, i.e., 628, which is followed by Madhya Pradesh (334), Maharashtra (247), Karnataka (222), etc. The total number of Municipal Corporations, Municipal Councils and Nagar Panchayats in the states/UT under study is 111, 1537 and 1365 respectively. Maharashtra has the highest number of corporations, i.e., 22, which is followed by Madhya Pradesh (14) and Uttar Pradesh (12). Data on municipal councils show that their numbers are high in Maharashtra, Uttar Pradesh, Tamil Nadu, Gujarat, Karnataka, West Bengal and Andhra Pradesh. The number of nagar panchayats is high in Uttar Pradesh, Madhya Pradesh and Rajasthan.

The 74th Amendment Act provisions have not been applied to certain Scheduled Areas and the Tribal Areas of India. Hence, the three states of Meghalaya, Mizoram and Nagaland, have been kept outside the purview of the said Act. It is, however, reported that in these states, traditional municipal institutions (such as municipal board, notified area committee, etc.) are functioning for the governance of urban areas.

Table 2.1: State-wise Data on Number of Urban Local Bodies in India

S. No.	Name of State/UT	Number of Urban Local Bodies			
		Municipal Corporation	Municipal Council	Nagar Panchayat	Total
1	Andhra Pradesh	8	108	1	117
2	Arunachal Pradesh #				
3	Assam	1	29	58	88
4	Bihar	5	32	85	122
5	Chhatisgarh	4	18	46	68
6	Delhi	1	1	0	2
7	Goa	1	12	0	13
8	Gujarat	6	143	0	149
9	Haryana	1	24	43	68
10	Himachal Pradesh	1	20	28	49
11	Jharkhand	1	20	22	43
12	Karnataka	6	123	93	222
13	Kerala	5	53	0	58
14	Madhya Pradesh	14	85	235	334
15	Maharashtra	22	225	0	247
16	Manipur	0	7	20	27
17	Meghalaya @				
18	Mizoram @ #				
19	Nagaland @				
20	Orissa	2	35	66	103
21	Punjab	5	97	31	133
22	Rajasthan	3	11	169	183
23	Sikkim #				
24	Tamil Nadu	6	151	0	157
25	Tripura	0	1	12	13
26	Uttaranchal	1	31	31	63
27	Uttar Pradesh	12	194	422	628
28	West Bengal	6	117	3	126
Total		111	1537	1365	3013

Notes:

1. # - There are no municipalities in the State.
2. @ - The 74th Amendment Act provisions have not been applied to certain Scheduled Areas and the Tribal Areas of India.

2.2 NUMBER OF COUNCILLORS, NUMBER OF WOMEN COUNCILLORS, NUMBER OF COUNCILLORS BELONGING TO SC/ST/BC CATEGORY

State-wise data/information on number of councillors in the three types of ULBs (i.e., Municipal Corporations, Municipal Councils and Nagar Panchayats) by gender (i.e., males and females) and category (i.e., SC, ST, BC) are given in Table 2.2 and in Annexure 3 (see Volume/Part II – A of the report). It may be mentioned here that detailed break-up of such data is difficult to obtain due to weak database at the state-level. It may be noted from the table that data on all states as well as desegregated data are not available. Hence, this information is presented here for a limited number of states only. It may further be clarified that the data on SC, ST and BC given in the table are a combined figure, which include both males and females.

It is obvious that the number of councilors in the three types of ULBs is high in the larger states of the country. The data confirm the fact that seats have been reserved for some sections of the society (i.e. SC, ST, BC, women) in municipalities throughout India. Due to gaps in data, the row on total number of councilors in states under study has not been inserted in Table 2.2. State-wise data on councilors show that: in municipal corporations, total number is high in Maharashtra, Uttar Pradesh, and Madhya Pradesh; in municipal councils, total number is high in Maharashtra, Uttar Pradesh and Tamil Nadu; and in nagar panchayats, the total number is high in Uttar Pradesh, Madhya Pradesh, Bihar and Karnataka.

Table 2.2: State-wise Data on Number of Councillors, Number of Women Councillors, Number of Councillors Belonging to SC/ST/BC Category

S. No.	Name of State/UT	Number of Councillors														
		All Municipal Corporations					All Municipal Councils					All Nagar Panchayats				
		Total	Female	SC	ST	BC	Total	Female	SC	ST	BC	Total	Female	SC	ST	BC
1	Andhra Pradesh	399	139	40	7	133	3104	1060	323	115	1045	21	7	2	1	7
2	Arunachal Pradesh #															
3	Assam	57	20													
4	Bihar	280	70	25	0	0	1156	292	112	2	0	1545	413	223	0	0
5	Chhatisgarh															
6	Delhi	134	37	25												
7	Goa															
8	Gujarat															
9	Haryana	25	8	2	0	2	656	231	55	0	48	601	219	71	0	86
10	Himachal Pradesh	24	8	3	0	15	201	68	16	0	0	204	60	19	0	0
11	Jharkhand															
12	Karnataka	410	147	42	5	136	3275	1222	398	69	1111	1390	573	183	49	473
13	Kerala	298	100	17	0	0	1597	550	124	2	0					
14	Madhya Pradesh	724					2040					3540				
15	Maharashtra	2064	693	219	57	556	5189	1750	624	220	1434					
16	Manipur															
17	Meghalaya @															
18	Mizoram @ #															
19	Nagaland @															
20	Orissa	95	33	10	3	26	693	236	94	76	135	934	330	158	98	217
21	Punjab	290	97	55	0	10	1591	609	414	0	97	385	150	105	0	31
22	Rajasthan															
23	Sikkim #															
24	Tamil Nadu	474	159	51	0	0	4358	1453	537	3	0					
25	Tripura	0					16	6	2	1	0	114	39	15	7	0
26	Uttaranchal	46	18				397	144				190	82			
27	Uttar Pradesh	865	291	114	0	182	4833	1734	571	0	1144	4823	1802	719	0	1029
28	West Bengal	364	123	33	3	0	2414	845	400	25	0					

Notes:

1. # - There are no municipalities in the state.
2. @ - The 74th Amendment Act provisions have not been applied to certain Scheduled Areas and the Tribal Areas of India.
3. Blank spaces in the table indicate that data are not available.

2.3 NUMBER OF SC/ST CHAIRPERSONS

State-wise data on number of SC/ST chairpersons are given in Table 2.3 and in Annexure 4 (see Volume/Part II – A of the report). It may be mentioned that such data are available for only 9 states of the country. The data show that their numbers are high in the southern states of Tamil Nadu and Karnataka. It is also

noted that in all states, the number of SC chairpersons is high as compared to the ST chairpersons.

Table 2.3: State-wise Data on Number of SC/ST Chairpersons

S. No.	Name of State/UT	Number of Chairpersons		
		Scheduled Castes	Scheduled Tribes	Total (SC and ST)
1	Andhra Pradesh	11	2	13
2	Arunachal Pradesh #			
3	Assam			
4	Bihar			
5	Chhatisgarh			
6	Delhi			
7	Goa			
8	Gujarat			
9	Haryana	13	0	13
10	Himachal Pradesh			10*
11	Jharkhand			
12	Karnataka	34	6	40
13	Kerala	4	0	4
14	Madhya Pradesh			
15	Maharashtra			
16	Manipur			
17	Meghalaya @			
18	Mizoram @ #			
19	Nagaland @			
20	Orissa	14	8	22
21	Punjab	9	0	9
22	Rajasthan			
23	Sikkim #			
24	Tamil Nadu	108	5	113
25	Tripura	2	1	3
26	Uttaranchal	3	0	3**
27	Uttar Pradesh			
28	West Bengal			

Notes:

1. # - There are no municipalities in the state.
2. @ - The 74th Amendment Act provisions have not been applied to certain Scheduled Areas and the Tribal Areas of India.
3. Blank spaces in the table indicate that data are not available.
4. * - SC/ST break-up not available for Himachal Pradesh.
5. ** - Data on Uttaranchal shows status of SC chairpersons only for municipal councils.

2.4 MODE OF RESERVATION AND ELECTIONS

2.4.1 Reservation of Seats in Urban Local Bodies

Information on mode of reservation in ULBs is available in the Municipal Acts of states/UT under study. A review of relevant Articles of the Acts pertaining to

reservation of seats for Mayor/Chairperson and Councillors in ULBs reveals that the state governments have amended their municipal Acts as per guidelines given in Article 243 – T of the 74th Amendment Act (Box 2.1), and provided for such reservation for the scheduled castes, scheduled tribes, and women.¹ In the states of Assam, Bihar, Jharkhand, Uttaranchal and Uttar Pradesh, seats have also been reserved for the backward classes.²

Box 2.1: Reservation of Seats (Article 243 – T)

- (1) Seats shall be reserved for the **SCs and STs** in every Municipality and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the SCs in the Municipal area or of the STs in the Municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Municipality.
- (2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for **women belonging to the SCs or as the case may be, the STs**.
- (3) Not less than one-third (including the number of seats reserved for women belonging to the SCs and the STs) of the total number of seats to be filled by direct election in every Municipality shall be reserved for **women** and such seats may be allotted by rotation to different constituencies in a Municipality.
- (4) The offices of **Chairpersons** in the Municipalities shall be reserved for the SCs, the STs and women in such manner as the Legislature of a State may, by law, provide.
- (5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in Article 334.
- (6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favour of **backward class** of citizens.

Source: *Constitutional Provisions*, 1999: 12.

2.4.2 Elections to Urban Local Bodies

Article 243 – U of the 74th Amendment Act provides for regular conduct of elections to ULBs. This provision has been included to overcome the problems related to the dissolution of ULBs for long periods.

Table 2.4 provides information on the method of electing Mayor, Chairman/Chairperson and Councillor in ULBs of a select number of states. It is observed that the elected heads (Mayor in Corporations and Chairman/Chairperson in Councils) are chosen in two ways – (a) elected from

¹ As per the amended Municipal Act of Assam, approximately 30 per cent of the Municipal Board (i.e., Municipal Council) and Town Committees (i.e., Nagar Panchayats) will have women chairperson, irrespective of SC/ST communities.

² In Uttaranchal and Uttar Pradesh, 14 and 27 per cent of the total number of seats in ULBs are reserved for backward classes respectively.

amongst the councilors (i.e., indirect election); and (b) elected from amongst eligible voters in the urban area (i.e., direct election). In the Corporations of Bihar and West Bengal, Mayor is elected from amongst the councillors. In Jharkhand, Uttaranchal, and Uttar Pradesh, the Mayor is chosen by direct election. Similarly, in municipal councils of Assam, Bihar, Manipur, Tripura and West Bengal, the chairman is elected from amongst the councillors. The chairman is chosen by direct election in Uttaranchal and Uttar Pradesh. Councillors in the two types of ULBs are chosen by direct election.

Table 2.4: Method of Electing Mayor, Chairperson and Councillor in ULBs

S. No.	State/UT	Municipal Corporation			Municipal Council		
		Mayor elected from amongst councilors	Mayor chosen by direct election	Councillors chosen by direct election	Chairman elected from amongst councilors	Chairman chosen by direct election	Councillors chosen by direct election
1	Arunachal Pradesh #						
2	Assam	I.N.A.	I.N.A.	I.N.A.	✓		✓
3	Bihar	✓		✓	✓		✓
4	Jharkhand		✓	✓	I.N.A.	I.N.A.	I.N.A.
5	Manipur	No municipal corporations in the state			✓		✓
6	Meghalaya @						
7	Mizoram @ #						
8	Nagaland @						
9	Orissa	I.N.A.	I.N.A.	I.N.A.	I.N.A.	I.N.A.	I.N.A.
10	Sikkim #						
11	Tripura	No municipal corporations in the state			✓		✓
12	Uttaranchal		✓	✓		✓	✓
13	Uttar Pradesh		✓	✓		✓	✓
14	West Bengal	✓		✓	✓		✓

Source: State Municipal Acts.

Notes:

1. # - There are no municipalities in the state.

2. @ - The 74th Amendment Act provisions have not been applied to certain Scheduled Areas and the Tribal Areas of India.

3. Tick mark in the table indicates the specific practice being followed in the state.

4. I.N.A. – Information not available.

State-wise data on elections to municipalities in selected states are given in Table 2.5. It is noted that except the states of Chhatisgarh and Jharkhand, elections to municipalities in the other states are being held regularly. In the case of some large states (such as Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Rajasthan, etc.), it is observed that the elections are held in stages due to a large number of ULBs.

Table 2.5: Elections to Municipalities in India

S. No.	Name of State/UT	Year in which last elections held
1	Andhra Pradesh	2000
2	Arunachal Pradesh #	
3	Assam	2003-4
4	Bihar	2002 and 2005
5	Chhatisgarh	Not held
6	Delhi	
7	Goa	
8	Gujarat	1999-2001
9	Haryana	
10	Himachal Pradesh	
11	Jharkhand	1989-90
12	Karnataka	2001-2
13	Kerala	2000
14	Madhya Pradesh	1999-2004
15	Maharashtra	2000-1
16	Manipur	
17	Meghalaya @	
18	Mizoram @ #	
19	Nagaland @	
20	Orissa	2003 and 2005
21	Punjab	
22	Rajasthan	2004-5
23	Sikkim #	
24	Tamil Nadu	2001
25	Tripura	2000
26	Uttaranchal	2003
27	Uttar Pradesh	2000
28	West Bengal	2004

Notes:

1. # - There are no municipalities in the state.

2. @ - The 74th Amendment Act provisions have not been applied to certain Scheduled Areas and the Tribal Areas of India.

3. Blank spaces in the table indicate that data are not available.

2.5 LEVEL OF DEVOLUTION AND COMPILATION OF FUNCTIONAL AND FINANCIAL POWERS OF ULBS

The level of devolution of functional responsibilities and financial powers to ULBs is described in this section for a select number of states on which information is available. A compilation of functional responsibilities/duties of ULBs and financial powers devolved upon ULBs is provided in Annexure 5 and 6 respectively (see Volume/Part II – B of the report).

2.5.1 Devolution of Functional Responsibilities

Article 243 – W and the twelfth Schedule of the 74th Amendment Act provide a basis for the State Legislatures to guide the state governments in the assignment of various essential functional responsibilities to ULBs (Box 2.2). The twelfth schedule consists of a list of 18 functions. Besides the traditional core functions of ULBs, some important functions, earlier managed by state agencies or other local level agencies, have also been included in the list.

Box 2.2: Powers, Authority and Responsibilities of Municipalities (Article 243 – W)

Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow –

- (a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to:
 - (i) the preparation of plans for economic development and social justice;
 - (ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the **Twelfth Schedule**;
- (b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.

Twelfth Schedule

1. Urban planning, including town planning;
2. Regulation of land-use and construction of buildings;
3. Planning for economic and social development;
4. Roads and bridges;
5. Water supply for domestic, industrial and commercial purposes;
6. Public health, sanitation, conservancy and solid waste management;
7. Fire services;
8. Urban forestry, protection of the environment and promotion of ecological aspects;
9. Safeguarding the interests of weaker sections of society, including the handicapped & mentally retarded;
10. Slum improvement and upgradation;
11. Urban poverty alleviation;
12. Provision of urban amenities and facilities, such as parks, gardens, playgrounds;
13. Promotion of cultural, educational and aesthetic aspects;
14. Burials and burial grounds; cremations, cremation grounds and electric crematoriums;
15. Cattle pounds; prevention of cruelty to animals;
16. Vital statistics, including registration of births and deaths;
17. Public amenities, including street lighting, parking lots, bus stops and public conveniences; and
18. Regulation of slaughter houses and tanneries.

Source: *Constitutional Provisions*, 1999: 13-14; 18-19.

A review of relevant sections pertaining to the duties of Municipal Corporations and Municipal Councils given in the Municipal Acts of states under study shows that the 18 functions given in the twelfth schedule have been included in the list of duties of ULBs. Furthermore, activity mapping of the 18 functions among the three tiers of ULBs is currently underway, i.e., a number of activities have been identified within each function and actions are being taken for implementation.

This information is available for the states of Assam, Bihar, Tripura and West Bengal (see Table 2.6 below and Annexure 5 given in Volume/Part II – B of the report). It is observed from the information given in Table 2.6 that some functions have been transferred to the ULBs and are being performed by them in consultation with the respective state government departments. Some other functions are being performed exclusively by the concerned state department. It is also learnt that in some states (for example Uttar Pradesh and West Bengal), some functions listed in the twelfth schedule (such as town planning, urban poverty alleviation, provision of urban amenities, vital statistics, etc.) were already being performed by the ULBs before the enactment of the 74th Amendment Act.

Table 2.6: Status on Implementation of 18 Functions Listed in the Twelfth Schedule

Function	Assam	Tripura	West Bengal
Status on Implementation of 18 Functions Listed in the Twelfth Schedule			
1. Urban planning, including town planning;	State govt. will issue notification for ULBs to prepare plans	State govt. is playing a vital role in urban mgmt. TCPO works as a nodal agency o imple. Of various central schemes & preparation of master plan, project reports	Detailed provisions in this regard have been made
2. Regulation of land-use and construction of buildings;	Amendment of municipal Act, 1956 & town & country plng. Act, 1959 is required for delegating power to ULBs	No specific land use regulation in the state; ULBs are given permission for construction of buildings; building bye-laws under process of framing	This function vested with the ULBs much before enactment of the 74 th CAA.
3. Planning for economic and social development;	Trained manpower at ULB level required	ULBs are preparing plans as part of urban plans in consultation with state govt.	Detailed provisions in this regard have been made
4. Roads and bridges;	Adequate staff for survey required at ULB level; engg. Cell entrusted to supervise & monitor	State PWD dept. performs this function; ULBs are responsible for monitoring & supervision	This function vested with the ULBs much before enactment of the 74 th CAA.
5. Water supply for domestic, industrial and commercial purposes;	Govt. may issue instruction to PHED & WS Board to provide technical support to ULBs; orientation programs launched for capacity bldg.	ULBs perform this function in association with PHED; maintenance is done by ULBs in coordination with PHED	This function vested with the ULBs much before enactment of the 74 th CAA.
6. Public health, sanitation, conservancy and solid waste management;	Instructions issued to ULBs; ULBs asked to submit proposal for solid waste mgmt.	ULBs perform this function in consultation with Health deptt. Of the state; state govt. is exploring avenues of finance for providing sewerage	This function vested with the ULBs much before enactment of the 74 th CAA.
7. Fire services;	Fire service is under state govt. & the organisation is working efficiently	This function is being performed by State Directorate of Fire Services	This function is being performed by State Fire Service; for involving ULBs, provisions have been incorporated in the Act
8. Urban forestry, protection of the environment and promotion of ecological aspects;	Necessary instructions have been issued to ULBs for promotion of forestry	This function is being performed by ULBs in association with Forest deptt.	Provision has been made to enable state govt. to transfer this power to ULBs; forest deptt. Is now providing resources to ULBs for taking

Function	Assam	Tripura	West Bengal
	Status on Implementation of 18 Functions Listed in the Twelfth Schedule		
9. Safeguarding the interests of weaker sections of society, including the handicapped & mentally retarded;	B.P.L. survey conducted; low cost sanitation program is under implementation	ULBs run a program for destitute children with financial assistance from Social Welfare & Social Education deptt.	up forestry programs Provision has been made for reservation of seats for weaker sections in ULBs; program for liberation of scavengers implemented vigorously
10. Slum improvement and upgradation;	National slum development program is under implementation	National slum development program is being implemented	This function vested with the ULBs much before enactment of the 74 th CAA.
11. Urban poverty alleviation;	Swarna Jayanti Shahri Rozgar Yojana is under implementation	Swarna Jayanti Shahri Rozgar Yojana is being implemented	This function vested with the ULBs much before enactment of the 74 th CAA.
12. Provision of urban amenities and facilities, such as parks, gardens, playgrounds;	ULBs are performing these functions	These facilities have been provided by ULBs through state govt. grants; ULBs are responsible for maintenance	This function vested with the ULBs much before enactment of the 74 th CAA.
13. Promotion of cultural, educational and aesthetic aspects;	Education in state is the responsibility of Education Deptt. Of the state; regd. Cultural & aesthetic aspects, ULBs have been instructed to take proper action	Programs are implemented in association with Directorate of Youth Affairs & Sports	ULBs are being assisted to construct/develop buildings – town hall, stadium, parks, etc.
14. Burials and burial grounds; cremations, cremation grounds and electric crematoriums;	ULBs are performing these functions	ULBs are performing these functions	State govt. is assisting ULBs in construction of electric crematorium
15. Cattle pounds; prevention of cruelty to animals;	ULBs are performing these functions	Some NGOs are performing this function; rules & regulations to stop cruelty against animals are under preparation	An Act for prevention of cruelty to animals is in force & the said Act has necessary provisions involving ULBs in this matter
16. Vital statistics, including registration of births and deaths;	This function is entrusted to ULBs by state health & family welfare deptt. During 2004-5	This function is being performed by the ULBs in association with health deptt.	This function vested with the ULBs much before enactment of the 74 th CAA.
17. Public amenities, including street lighting, parking lots, bus stops and public conveniences; and	Public amenities are provided by the ULBs; instructions have been issued to ULBs for provision of working women hostels & PPP	Street lighting is provided in association with power deptt.; proposal for construction of working women hostel has been sent to GOI for sanction	This function vested with the ULBs much before enactment of the 74 th CAA.
18. Regulation of slaughter houses and tanneries.	ULBs are performing these functions	Rules for proper maintenance of slaughter house are under preparation	This function vested with the ULBs much before enactment of the 74 th CAA.

Source: Information collected through field visits from Municipal Administration Departments of respective states.

Available information on functional devolution in Himachal Pradesh shows that the Government of India has constituted a Standing Committee on Rural and Urban Development, which is of the opinion that considerable efforts have to be made in respect of functional devolution to municipalities. In the state, the state government departments presently perform some functions. It is reported that one of the reasons for the delay in transferring the functions is that ULBs are not in a position to execute the functions unless funds and functionaries are also transferred.

2.5.2 Devolution of Financial Powers

Article 243 – X of the 74th Amendment Act provides for devolution of financial powers to ULBs (Box 2.3). Adequate information showing the exact nature of devolution is, however, not available at the state level. A review of select Municipal Acts of the states under study shows that the ULBs were already empowered to levy most taxes, fees and tolls before the enactment of the 74th Amendment Act (see Table 2.7 and 2.8 below and Annexure 6 given in Volume/Part II – B of the report).

Box 2.3: Power to Impose Taxes by, and Funds of, the Municipalities (Article 243 – X)

The Legislature of a State may, by law, -

- (a) authorise a Municipality to levy, collect and appropriate such taxes, duties and tolls and fees in accordance with such procedures and subject to such conditions and limits;
- (b) assign to a Municipality such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;
- (c) provide for making such grants-in-aid to the Municipalities from the Consolidated Fund of the State; and
- (d) provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Municipalities and also for the withdrawal of such moneys therefrom,

as may be specified in the law.

Source: *Constitutional Provisions*, 1999: 14.

Table 2.7: Taxes and Non-taxes to be levied by Municipal Corporations as per the Municipal Acts

Bihar (Patna Municipal Corporation)	Uttar Pradesh	West Bengal (Calcutta Municipal Corporation)
Taxes to be levied:	Taxes to be levied:	Taxes to be levied:
1. tax on holdings 2. water tax 3. latrine tax 4. lighting tax 5. drainage tax 6. tax on vehicles, horses & other animals 7. fee on registration of carts 8. fee on registration of vehicles 9. tax on trades, professions, callings & employments 10. toll or duty on animals or goods brought for sale, consumption or use 11. fee on vessels moored at ghats 12. fee on registration of dogs 13. toll on vehicles, carts & animals 14. fee on registration of platforms 15. tax on all advertisements, other than those published in newspapers	1. property tax 2. tax on vehicles 3. tax on animals 4. tax on traders, callings & professions 5. tax on dogs 6. betterment tax 7. tax on deeds of transfer of immovable property 8. tax on advertisements other than those published in newspapers 9. theatre tax	1. property tax 2. tax on advertisements other than those published in newspapers 3. toll 4. tax on cart 5. tax on carriage

Source: Municipal Acts of respective states (see references given at the end of this report).

Table 2.8: Taxes and Non-taxes to be levied by Municipal Councils as per the Municipal Acts

Assam	Bihar	Manipur	Sikkim	Tripura	Uttar Pradesh	West Bengal
1. tax on holdings 2. water tax 3. lighting tax 4. latrine tax 5. drainage tax 6. tax on private markets 7. license fees on carts, carriages, etc. 8. fee on registration of dogs & cattle 9. fee on boats 10. tolls on bridges 11. betterment fee on holdings 12. fees for setting up & maintenance of fire brigade	1. tax on persons in sole or joint occupation of holdings 2. tax on holdings 3. water tax 4. lighting tax 5. latrine tax 6. tax on vehicles, horses, etc. 7. tax on trades, professions, callings & employments 8. tax on dogs 9. fee on registration of dogs 10. fee on registration of carts 11. fee on registration of vehicles 12. fee on vessels	1. tax on holding 2. tax on vehicles 3. octroi on goods 4. latrine tax 5. scavenging tax 6. lighting tax 7. drainage tax 8. tax on deeds of transfer of immovable property 9. tax on advertisements 10. water tax 11. market fees 12. betterment charge	1. tax on holdings 2. tax on vehicles 3. octroi on goods brought 4. latrine tax 5. lighting tax 6. drainage tax 7. tax on deeds of transfer of immovable property 8. tax on advertisements 9. water tax 10. market fees 11. betterment charge on properties 12. tax on theatres 13. duty on transfer of property 14. tax on profession, trades & callings 15. tax on dogs 16. toll on vehicles & animals 17. tax on pilgrims 18. tax on passengers & goods carried by road	1. property tax 2. tax on advertisements 3. tax on carts & carriages 4. toll on ferries & bridges 5. fees on licence & permits 6. fees on construction or reconstruction of buildings 7. fees on applications filed under this Act 8. fees for any specific service rendered by the ULB 9. parking fee on vehicles 10. fee on entry of vehicles & goods	1. tax on annual value of buildings & land 2. tax on trades & callings 3. tax on trades, callings, etc. 4. theatre tax 5. tax on vehicles 6. tax on dogs 7. tax on animals used for riding, driving, etc. 8. water tax 9. drainage tax 10. scavenging tax 11. conservancy tax 12. tax on deeds of transfer of immovable property	1. property tax on lands & buildings 2. tax on advertisements other than those published in newspapers 3. tax on cart 4. tax on carriage 5. toll on ferries & bridges

Source: Municipal Acts of respective states (see references given at the end of this report).

2.6 CONSTITUTION, COMPOSITION AND FUNCTIONING OF WARDS COMMITTEES

Article 243 – S of the 74th Amendment Act provides for constitution of wards committees (WCs), consisting of one or more wards, in ULBs having a population of three lakhs or more. Further, the state legislatures are allowed to make provisions with respect to the composition and the territorial area of a WC and the manner in which seats shall be filled in such committees.

The Municipal Acts of the states under study show that provisions related to the constitution of WCs have been incorporated. It is also learnt that rules for the constitution, composition and functioning of wards committees have been formed by the state legislatures of Uttar Pradesh and West Bengal (see Annexure 7 given in Volume/Part II – B of the report).

State-wise information on the number, composition and functions of wards committees (WCs) is given in Table 2.9 below and in Annexure 7 (see Volume/Part II – B of the report). The data show that WCs have been constituted in a total of 9 states of India. These include Andhra Pradesh, Chhatisgarh, Delhi, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Tamil Nadu and West Bengal.

Generally, members of WCs comprise the elected ward representatives (i.e., councillors) and nominated members. In the states of Karnataka, Kerala, and Maharashtra, a higher level of participation is observed, where members of NGOs, CBOs, neighbourhood groups, heads of educational institutions, persons from agriculture, industry, health, trade unions, etc., have also been associated. On the other hand, the deputy commissioner is the head of the executive wing of the WCs.

WCs have been assigned several responsibilities, such as maintenance of civic services, revenue collection/assistance in tax collection, drafting of annual budget, slum improvement, public grievances, formulation and execution of development schemes, monitoring the implementation of development programmes, recommendations on proposals regarding estimates of expenditure, granting approval and financial sanction to plans and municipal works, scrutiny of monthly progress report, etc.

Table 2.9: State-wise Information on Functioning of Ward (s) Committees in India

S. No.	Name of State/UT	Number of WCs	Composition of WCs	Functions of WCs
1	Andhra Pradesh	15	Councilors	Maintenance of civic services, revenue collection, drafting of annual budget, etc.
2	Arunachal Pradesh #			
3	Assam	0		
4	Bihar	0		
5	Chhatisgarh	✓		
6	Delhi	12	Councilors, nominated members	
7	Goa	0		
8	Gujarat	0		
9	Haryana	0		
10	Himachal Pradesh	0		
11	Jharkhand	0		
12	Karnataka	35	Councilors, nominated members, members of NGOs/CBOs	Maintenance of civic services, slum improvement, public grievances, maintenance of statistics, etc.
13	Kerala	One for each ward	Councilors, nominated members, members of resident organizations, neighbourhood groups, heads of educational institutions, persons from agriculture, industry, NGOs, health institutions, trade unions	Formulation of development schemes, assistance in tax collection, monitoring implementation of development programmes, etc.
14	Madhya Pradesh	41	Councilors, nominated members	Maintenance of civic services, collection of taxes, execution of schemes, etc.
15	Maharashtra	51	Councilors, nominated members, members of NGOs/CBOs	Citizen grievances, recommendations on proposals regarding estimates of expenditure, grant approval and financial sanction to plans, etc.
16	Manipur			
17	Meghalaya @			
18	Mizoram @ #			
19	Nagaland @			
20	Orissa	0		
21	Punjab	0		
22	Rajasthan	0		
23	Sikkim #			
24	Tamil Nadu	14	Councilors, nominated members	Sanction of municipal works, scrutinize monthly progress reports, etc.
25	Tripura	0		
26	Uttaranchal	0		
27	Uttar Pradesh			
28	West Bengal	One for each ward (2588)	Councilors, nominated members	Supervision and monitoring of civic works, planning, execution of development schemes

Notes:

1. # - There are no municipalities in the state.
2. @ - The 74th Amendment Act provisions have not been applied to certain Scheduled Areas and the Tribal Areas of India.
3. Tick mark in the table indicates that WCs have been constituted.
4. Blank spaces in the table indicate that data are not available.

Some information is available on the functioning of wards committees in different states of India. It is learnt that in the southern states, they are functional in Tamil Nadu and in Kerala. In Andhra Pradesh and Karnataka, they are practically not functional except in Hyderabad and in Bangalore municipal corporations. In the case of Bangalore, it is further learnt that they are neither meeting regularly, nor working effectively. It may be stated that Kerala is a unique example, where WCs have been constituted in every ward and in towns with a population of more than a lakh. In the case of Chhatisgarh, it is learnt that although WCs have been constituted in Raipur Municipal Corporation, no responsibilities have been assigned to them and no budgetary allocation is being given. In fact, they are completely non-functional.

Available data show that WCs have been constituted in the state of West Bengal. At present there are a total of 2803 municipal wards in the state out of which WCs have been formed in 2588 wards. There are still 10 ULBs in the state where WCs have not been formed. Available information on West Bengal further reveals that WCs comprise of the elected ward representatives (i.e., councillors) and other members nominated by the councillors. The elected councillor of the ward is the chairperson of the committee. The first meeting of a WC is held within 15 days of its constitution and ordinary meetings are held at least once a month. Besides, open meetings with the citizens of the ward are held twice in a year. WCs have been made responsible for the supervision and monitoring of a number of activities, such as maintenance of civic services, revenue collection/assistance in tax collection, slum improvement, public grievances, formulation and execution of development schemes, monitoring the implementation of development programmes, etc.

2.7 CONSTITUTION AND FUNCTIONING OF STATE FINANCE COMMISSIONS

To strengthen the financial condition of municipalities, Articles 243 – I and 243 – Y of the Indian Constitution empower State Governments to constitute a State

Finance Commission (SFC) once in five years and “to review the financial position of the Municipalities and make recommendations to the Governor as to –

- (a) the principles which should govern -
 - (i) the distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part (IX-A) and the allocation between the Municipalities at all levels of their respective shares of such proceeds;
 - (ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Municipalities;
 - (iii) the grants-in-aid to the Municipalities from the Consolidated Fund of the State;
- (b) the measures needed to improve the financial position of the Municipalities;

any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities” (*Constitutional Provisions*, 1999: 14-15).

The status of state finance commissions (SFCs) in the states under study has been described in the following sub-sections.

State-wise information on the status of state finance commissions is given in Table 2.10 below. A compilation of SFC recommendations and actions taken is provided in Annexure 8 (see Volume/Part II – C of the report).

2.7.1 Constitution of SFCs and Status of SFC Reports and Action Taken Reports

In response to the 74th Amendment Act provisions on constitution of SFCs, a Finance Commission has been constituted at the state level. It is observed that the finance commissions constituted in various states of India have attempted a detailed review of the financial position of ULBs. The findings on the local-level issues of governance (including those related to financial aspects) and

recommendations to overcome the prevailing constraints confronting ULBs have been documented in the reports prepared by the SFCs of most states. The actions taken by the state authorities on the SFC recommendations have been documented in the Action Taken Reports (ATRs). The reports indicate whether a recommendation has been accepted or not by the state government and the steps that have been taken after a recommendation has been accepted, i.e., its implementation status.

It may be stated here that SFCs are constituted for a fixed term (i.e., generally five years) and their recommendations are valid for this period. Upon completion of their term, the next commission is constituted, which reviews the performance of the previous finance commission and gives new recommendations. It is learnt that in most states, the period of the first and second SFCs is over or nearing completion, and in a few states, the third SFC has been constituted.

Information given in the table shows that most of the first SFCs were constituted during the period 1994-95. It is further observed that in the states of Jammu and Kashmir and Arunachal Pradesh, the first SFC was constituted in the year 2001 and 2003 respectively. In the newly formed states of Chhatisgarh, Jharkhand and Uttaranchal, the first SFCs were constituted during 2003, 2004 and 2001 respectively. Insofar as the submission of first SFC reports is concerned, it may be stated that in the states of Punjab, Rajasthan and West Bengal, the report was submitted in the year 1995. Although, most reports were submitted during the period 1996-99. Bihar is an exception, where the report could not be submitted due to various reasons.

Information on the status of second SFCs is also shown in the table. It is noted that the state governments of Andhra Pradesh and Himachal Pradesh were the first to constitute the second SFC in the year 1998. In other states, the second SFCs were constituted during the period 1999-2004. It is also observed that in the states of Arunachal Pradesh, Chhatisgarh, Jammu and Kashmir, Jharkhand

and Uttaranchal, the second SFC has not been constituted due to the fact that the period of the first SFC is not yet complete. Regarding the status of second SFC reports, it is learnt that most reports were submitted during the period 2001-2002. There are, however, a number of states where the second reports are in the process of being approved by the state government. States falling in this category include Assam, Goa, Gujarat, Haryana, Maharashtra, and Orissa.

The actions taken by the state authorities on the SFC recommendations have been documented in the action taken reports (ATRs). A review of available information on the status of ATRs reveals that in respect of the first SFC reports, the ATRs have been submitted and approved by the state government/legislature in almost all states. Regarding the status of ATRs with respect to the second SFC reports, it is observed that these reports have been submitted and approved only in a few states (see Table 2.10).

2.7.2 Areas of Recommendations

The SFCs have framed recommendations on a number of areas. The 74th Amendment Act Provisions as well as Terms of Reference (TOR) notified by the State Governments have provided the basic guidelines and areas on which emphasis is to be laid. This study identifies six major areas on which recommendations have been made, namely:

- (i) Revenue sharing between state and municipalities/local bodies;
- (ii) Criteria for distribution of funds between municipalities;
- (iii) Taxes, non-taxes, assigned revenues and compensations to municipalities;
- (iv) Grants-in-aid to municipalities;
- (v) Other measures to improve the financial condition of municipalities; and
- (vi) Other measures for strengthening municipal governance.

It may be stated that although the major thrust is given on strengthening the financial condition of ULBs, there is also an emphasis on improving their overall management capabilities. A complete listing of SFC recommendations of states under study is provided in Annexure 8 (see Volume/Part II – B of the report).

Table 2.10: State-wise Information on Status of State Finance Commissions in India

S. No.	States/ Union Territories	First SFC		Second SFC		Status of Action Taken Reports	
		Date of Constitution	Date of Submission of Report	Date of Constitution	Date of Submission of Report	First	Second
1	Andhra Pradesh	22.6.1994	31.5.1997	8.12.1998	19.8.2002	Submitted	Submitted
2	Arunachal Pradesh #	21.5.2003	I.N.A.	Due in 2008	N.A.	I.N.A.	N.A.
3	Assam	23.6.1995	29.2.1996	Constituted	U.C.	Submitted	N.A.
4	Bihar	23.4.1994	Not submitted @	June 1999	Jan. 2003* (Interim Rep.)	N.A.	I.N.A.
5	Chhatisgarh	22.8.2003	I.N.A.	Due in 2008	N.A.	I.N.A.	N.A.
6	Goa	1.4.1999	5.6.1999	I.N.A.	U.C.	Submitted	N.A.
7	Gujarat	15.9.1994	.10.1998 *	Constituted	U.C.	Submitted	N.A.
8	Haryana	31.5.1994	31.3.1997	6.9.2000	U.C.	Submitted	N.A.
9	Himachal Pradesh	23.4.1994	.11.1996	25.5.1998	24.10.2002*	Submitted	Submitted
10	Jammu & Kashmir	24.4.2001	I.N.A.	Due in 2005	I.N.A.	I.N.A.	I.N.A.
11	Jharkhand	28.1.2004	I.N.A.	Due in 2005	I.N.A.	I.N.A.	I.N.A.
12	Karnataka	10.6.1994	.1.1996 *	25.10.2000	23.12.2002	Submitted	I.N.A.
13	Kerala	23.4.1994	29.2.1996	23.6.1999	8.1.2001	Submitted	I.N.A.
14	Madhya Pradesh	17.6.1994	.6.1996 *	17.6.1999	22.7.2003 *	Submitted	Submitted
15	Maharashtra	23.4.1994	31.1.1997	22.6.1999	U.C.	Submitted	N.A.
16	Manipur	22.4.1994	.12.1996	Constituted	I.N.A.	Submitted	I.N.A.
17	Meghalaya	74 th Amendment Act Provisions are not applicable to these States under Article 243-ZC and Article 243-M (2) of the Constitution					
18	Mizoram #						
19	Nagaland						
20	Orissa	21.11.1996	31.12.1998	5.6.2003	U.C.	Submitted	N.A.
21	Punjab	22.4.1994	31.12.1995	21.9.2000	.2.2002	Submitted	Submitted
22	Rajasthan	23.4.1994	31.12.1995	7.5.1999	29.8.2001	Submitted	Submitted
23	Sikkim #	22.7.1998	16.8.1999	Constituted	I.N.A.	Submitted	I.N.A.
24	Tamil Nadu	23.4.1994	.11.1996	1.12.1999	.5.2001	Submitted	Submitted
25	Tripura	23.4.1994	17.9.1999 *	29.10.1999	I.N.A.	Submitted	I.N.A.
26	Uttaranchal	31.3.2001	29.6.2002	Due in 2006	N.A.	Submitted	N.A.
27	Uttar Pradesh	22.10.1994	26.12.1996	25.2.2000	.6.2002	Submitted	Submitted
28	West Bengal	30.5.1994	27.11.1995	14.7.2000	6.2.2002	Submitted	U.C.
Union Territories							
1	Andaman & Nicobar Islands \$	20.9.1995	.8.1998	28.8.2001	31.5.2002	Submitted	I.N.A.
2	Chandigarh	.5.1995	I.N.A.	9.1.2001	I.N.A.	I.N.A.	I.N.A.
3	Dadra & Nagar Haveli #, \$	8.9.1995	.8.1998	.12.2001	31.5.2002	Submitted	I.N.A.
4	Daman & Diu \$	8.9.1995	.8.1998	.12.2001	31.5.2002	Submitted	I.N.A.
5	Delhi	3.4.1995	.12.1997	9.1.2001	.4.2002	Submitted	Submitted
6	Lakshadweep #, \$	8.9.1995	.8.1998	.12.2001	31.5.2002	Submitted	I.N.A.
7	Pondicherry ^	12.3.1997	15.9.1997	5.1.2004	I.N.A.	Submitted	I.N.A.

Source: Data collected from the SFC reports of different States/UTs; MUD & CFC database; Field visits.

Notes: (i) # : There are no municipalities in the State/UT.

(ii) \$: One single report contains information on the four UTs of Andaman & Nicobar Islands, Dadra & Nagar Haveli, Daman & Diu and Lakshadweep.

(iii) * : Report relates to municipalities only.

(iv) @ : The Interim Report of SFC (Bihar) submitted in January 2003 points out that the first SFC Report could not be submitted due to various reasons.

(v) U.C. – Under consideration; I.N.A. – Information Not Available; N.A. – Not Applicable.

(vi) ^ : As per Government order, the Commission has submitted 6 six monthly reports containing its recommendations to the Government. The First Finance Commission recommendations are for a period of 5 years (i.e., up to 31.3.2005).

2.7.3 Number of Recommendations

Table 2.11 shows the number of key recommendations of first and second SFCs in selected states of India. This information has been obtained from the SFC reports. It may be stated that the number of recommendations given in the table is an approximation. This is due to the reason that this information has not been properly provided in a number of SFC reports. It is noted that in most SFC reports, the exact number of recommendations has not been clearly specified. Recommendations have been provided in the chapters, and a summary of recommendations is provided at the end of the SFC reports. In some cases, it is observed that recommendations have not been listed separately. In a number of SFC reports, recommendations for urban and rural areas/local bodies have not been presented under separate sections. There are several recommendations meant for the state government and these too have not been presented separately. This has created problems in arriving at the number of recommendations. Nonetheless, an attempt has been made to count the number of recommendations and to classify them into four categories – total recommendations; recommendations for urban local bodies (ULBs)/urban areas; recommendations for panchayati raj institutions (PRIs)/rural areas; and recommendations which are common for ULBs, PRIs and state governments.

Table 2.11: Number of Key First and Second SFC Recommendations by States

S. No.	State	First SFC Recommendations				Second SFC Recommendations			
		Total	For ULBs/urban areas	For PRIs/rural areas	Common for ULBs/PRIs/State Govt.	Total	For ULBs/urban areas	For PRIs/rural areas	Common for ULBs/PRIs/State Govt.
1	Assam	14	1	2	11				
2	Bihar					7			
3	Manipur	10	1	-	9				
4	Orissa	29	12	13	4				
5	Sikkim	20	9	7	4				
6	Tripura		25						
7	Uttaranchal	4	1	1	2				
8	Uttar Pradesh	97	61	36	-	212	100	92	20
9	West Bengal	46	7	11	28	18	5	4	9

Source: First and Second State Finance Commission Reports.

Note: (i) Blank boxes in the table indicate that either the SFC report has not been approved by the state government or information is not available.
(ii) Only those states have been included in the table on which information is available.

2.7.4 Actions Taken on Key SFC Recommendations

An attempt has been made in this study to assess the status of actions taken on key SFC recommendations for local bodies (both urban and rural) of selected states. A classification of recommendations according to the actions taken is presented in Table 2.12. It is observed from a review of both the first and the second ATRs that the proportion of recommendations accepted (either fully, partly or in a modified form) is much higher than those which have not been accepted. It may be mentioned here that the decision to accept or reject a recommendation lies with the state government and is based on a number of factors, such as the financial condition of the state/local government, priority areas of concern, etc.

The data given in Table 2.12 show that acceptance of first SFC recommendations is between 80 to 100 per cent in Tripura, Uttaranchal, Uttar Pradesh and West Bengal and less than 50 per cent in Assam and Orissa.

Table 2.12: Status of Actions Taken on Key First and Second SFC Recommendations

S. No.	State	Status of First SFC Recommendations				Status of Second SFC Recommendations			
		Total No.	Proportion of Recommendations (%)			Total No.	Proportion of Recommendations (%)		
			Accepted	Not Accepted	Under Consideration		Accepted	Not Accepted	Under Consideration
1	Assam	14	43	-	57				
2	Orissa	34	44	3	53				
3	Tripura *	25	88	4	8				
4	Uttaranchal	30	100	-	-				
5	Uttar Pradesh	97	82	1	17	245	67	19	14
6	West Bengal	44	84	-	16				

Source: State Finance Commission Reports and Action Taken Reports.

Note: (i) * indicates that the first ATR of Tripura relates to municipalities only.
(ii) Blank boxes in the table indicate that either the SFC report has not been approved by the state government or information is not available.
(iii) Only those states have been included in the table on which information is available.

2.7.5 Implementation Status of Key SFC Recommendations

In this section information is provided on the status of some key recommendations and their implementation in the states selected for this study (see Table 2.13 below and Annexure 8 given in Volume/Part II – C of the report). It may be mentioned here that adequate information on implementation status is not available for some states.

2.7.5.1 Revenue Sharing between State and Municipalities

The recommendation on 'Sharing of State Revenues' has been accepted by the State Governments of Andhra Pradesh, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, West Bengal and Delhi. However, it is learnt that the recommended share has been either partly devolved or is yet to be devolved. This is true in the case of Andhra Pradesh, Punjab and West Bengal. In Tamil Nadu, the State Government has frozen the percentage for all the 5 years owing to resource crunch. In Goa and Kerala, this recommendation has not been accepted due to the fact that the States' own tax resource base is under pressure.

2.7.5.2 Criteria for Distribution of Funds between Municipalities

It is noted that the criteria identified and weightages assigned by the Finance Commission of various states have been accepted fully by the state governments of Rajasthan, Tamil Nadu and Uttar Pradesh. In Andhra Pradesh, these have been accepted with modification, where a marginal change in weightage and parameters has been recommended. In Goa, these have been accepted partly and it is suggested that more weightage should be given to backwardness criterion as compared to population. Information on the status of implementation shows that in Rajasthan, funds are being distributed among ULBs as per the recommended criteria and weightages.

Table 2.13: Key Recommendations and Actions Taken

S. No.	State	Actions Taken on Key Recommendations and Status of Implementation
1	Arunachal Pradesh #	
2	Assam (First SFC)	<ul style="list-style-type: none"> Registers & forms for proper <u>accounts & records</u> to be maintained by each ULB as per prescribed formats – Accepted; on receipt of govt. decision, necessary instructions will be issued to ULBs for maintaining accounts in the prescribed form. Total % age of <u>share of state taxes</u> for transfer to local bodies should be 2 % – Accepted Payment of <u>grants-in-aid</u> to local bodies for implementing development programs of core subjects within the jurisdiction of each local body – Accepted Assessment of <u>property tax</u> should be made every five years – Accepted
3	Bihar*	
4	Jharkhand*	
5	Manipur*	
6	Meghalaya @	
7	Mizoram @ #	
8	Nagaland @	
9	Orissa (First SFC)	<ul style="list-style-type: none"> Govt. may impose <u>profession tax</u> & 50 % of the gross collection to be assigned to ULBs to improve basic services – to be examined in detail/under consideration Govt. may impose <u>entry tax</u> in lieu of octroi – under consideration; since octroi is a buoyant & elastic source of revenue, its abolition & substitution by entry tax may have to be carefully understood to ensure an overall net addition in revenue of ULBs Govt. should transfer the <u>functions</u> of road maintenance, health, electricity, sewerage line to ULBs along with proportionate maintenance grant each year; garbage disposal & improvement of sanitation in ULBs to be privatised – under consideration
10	Sikkim #	
11	Tripura (First SFC)	<ul style="list-style-type: none"> Minimum level of <u>data</u> to be maintained by ULBs as per prescribed formats – Accepted Initial funding & technical expertise for establishing a <u>local finance database</u> be provided through a plan scheme of the state – Accepted Substantial part of <u>non-tax revenue</u> of state should be shared with ULBs – Not Accepted; since the revenues are in the nature of service charges & are not sharable Rs. 7 crores may be placed with ULBs as <u>grants-in-aid</u> by state govt. from the consolidated fund with 15 % progression per year in subsequent years – Accepted Following measures may be adopted by ULBs for effective functioning: better enforcement of Municipal Act provisions; realisation of existing arrears/taxes; expansion of territorial jurisdiction; creation of revenue yielding assets; regular revision of rates of taxes, fees, tolls; auditing of accounts; etc. – Accepted
12	Uttaranchal (First SFC)	<ul style="list-style-type: none"> <u>Devolutions</u> to ULBs be made in per capita terms: Rs. 250 per capita for M. Corporations; Rs. 250 – 300 per capita for M. Councils; and Rs. 175 – 225 per capita for N. Panchayats – Accepted Initially only 70 % of the entitlement should be realised & release of remaining 30 % be linked to their financial & institutional performance – Accepted
13	Uttar Pradesh (Second SFC)	<ul style="list-style-type: none"> ULBs should be adequately empowered to discharge <u>responsibilities</u> marked for them in the 12th Schedule of the Constitution – Not Accepted Besides existing <u>obligatory taxes</u>, profession tax, tax on deeds of transfer of immovable property & urban vacant land tax should also be included in the list of obligatory taxes for M. Corporations – Accepted <u>Property tax</u> system in ULBs to be reformed – Accepted <u>User charges</u> should be periodically revised to adjust for rise in cost of providing services – Accepted Total <u>share of local bodies</u> in the divisible pool to be increased from 11 % to 12.5 %, of which 7.5 % share should be given to ULBs & 5 % to PRIs – Accepted
14	West Bengal (First SFC)	<ul style="list-style-type: none"> A substantial part of <u>plan expenditure</u> for districts should be entitlements to local bodies in the form of untied funds & the rest will continue to be grants – Accepted 16 % of <u>net proceeds of all tax</u> collected by State be transferred to local bodies – Accepted <u>Taxes on entertainment</u> collected by state to be handed over to local bodies – under consideration ULBs should be empowered to issue trade licences with fees at a much higher level; to impose tolls at higher rates for heavy vehicles; to levy imposts on tourists/pilgrims; to impose water tax on large users; to introduce special conservancy charges for commercial & industrial establishments – Accepted

Source: State Finance Commission Reports and Action Taken Reports.

Notes: 1. # - There are no municipalities in the state; 2. @ - The 74th Amendment Act provisions have not been applied to certain Scheduled Areas and the Tribal Areas of India;

3. * - Data not available.

2.7.5.3 Taxes, Non-taxes, Assigned Revenues and Compensations

It is noted that the state governments have generally accepted recommendations on **property tax**. In Kerala, necessary revisions have been made in the Municipal Act regarding revision of tax every four years. In Punjab, provisions have been made in Punjab Municipal Bill, 1999 to de-link property tax. However, no decision has been taken by the government to compensate ULBs for loss of revenue due to exemptions granted by the state government. In Rajasthan, simplification of assessment procedure is in process. In Andhra Pradesh, it is suggested that loss in revenue to ULBs from property tax exempted properties may be compensated by a corresponding increase in grant-in-aid and not by enhancing the amount of compensation by the state government. Further, it is mentioned that a review of exempted properties should be undertaken to limit only non-profitable and charitable institutions.

The recommendations in respect of **profession tax** have been accepted in the case of most states on which information is available. In Kerala, the suggestion on a reduction in the number of slabs and the rationalization of rates has been accepted, however, new slabs have not been notified for ULBs. In Punjab, tax on professions, individuals, traders, commission agents and shopkeepers, has still not been levied. Moreover, the power to fix rates of local taxes continues to remain with the state government. In Pondicherry, action is being taken to amend the local bodies Act with respect to increasing the maximum limit of profession tax. Andhra Pradesh is the only state where the recommendation of transferring a higher share of profession tax from state government to local bodies has not been accepted. This is due to the reason that grant-in-aid is already recommended for carrying out infrastructure development. However, recommendations on criteria for allocation of profession tax to ULBs and the collection of this tax from small traders, employees of certain establishments (such as TB Sanatorium, etc.) have been accepted by the state government of Andhra Pradesh.

Recommendations on **entertainment tax** have been either accepted fully or with minor modifications. For instance, in Haryana, instead of the recommended 50 per cent, only 25 per cent of net proceeds are accepted for transfer to the ULBs. Further, it is noted that this recommendation has been implemented in the state. In Kerala, the recommendation on merging entertainment tax and additional entertainment tax has been accepted and implemented. In Tamil Nadu, the recommendations on transfer of benefits from entertainment tax and assignment of 90 per cent of total realizations of this compounded tax to local bodies have been accepted. West Bengal government has accepted to hand over this tax (collected by state) to local bodies however no action has been taken. It is learnt that though almost the entire amount of fund collected on this account is being given to local bodies, this tax has neither been assigned to them, nor they have been given any discretionary powers for fixing the rates. The main reason for this is that the state government already had elaborate machinery for collection of this tax, which would become redundant. Hence, it is suggested that the arrangement of sharing of this tax should be continued.

Suggestions on **user charges** have been accepted in the states of Kerala, Punjab, and Uttar Pradesh. In Punjab, action is being taken to provide metered water supply and to revise water rates and sewer charges. It is also noted that privatisation in the operation of water supply has been partially introduced in some ULBs. However, no decision has been taken on linking of water rate with power tariff. In Uttar Pradesh, the urban development department has taken steps to revise water rates.

2.7.5.4 Grants-in-aid to Municipalities

In Andhra Pradesh, the suggestion to increase the per capita grant to ULBs has been accepted in view of the increasing costs of materials required for undertaking development activities. The recommendation to sanction additional grant for newly constituted municipalities has been accepted, however, no action

has been taken. In the case of corporations, it is rejected since the same is not considered as an area of priority concern. Release of grants based on performance of ULBs is accepted, however, the matter is under consideration. In Gujarat, it is suggested that grants-in-aid given for motor vehicle tax should be discontinued. This recommendation has been accepted and it is mentioned that the powers will be delegated to ULBs for imposing a lifetime tax on vehicles in consultation with the Transport Department. Some suggestions which have not been accepted relate to: transfer of a proportion of conversion tax to ULBs; continuance of the existing practice of land revenue recovery from agricultural land; and increase in the rate of local cess and irrigation cess.

In Haryana, the recommendation on transfer of tenth/eleventh finance commission grants has been accepted, but the grant has been partly released. In Himachal Pradesh, the recommendation on transfer of grants in lieu of octroi has been accepted with modification and it is suggested that there should be a source transfer by clubbing octroi grant. In Kerala, the recommendation on giving rights to local bodies to decide on the application of non-plan grants according to their own priority and needs has been accepted and implemented. However, suggestions on non-statutory non-plan grants and on maintenance grant have not been accepted. In respect of the former, it is mentioned that the state government is already meeting the establishment expenditure regarding the staff transferred to local bodies. In the case of the latter, it is stated that the financial condition of the state government does not allow for this change. In Punjab, the recommendation on providing financial assistance (by way of per capita grants-in-aid) to weak ULBs has been accepted, but such grants have not been given to them. In Rajasthan, most recommendations on grants to ULBs have been accepted. Further, information on implementation status shows that the state government has already issued orders and the amount is being distributed. In Uttar Pradesh, the recommendation on the criteria for distribution of the tenth finance commission grant has been accepted. In Pondicherry, recommendations on a lump sum compensation grant (due to non-revision of property tax rates)

and payment of compensatory grant to local bodies (due to abolition of tolls and vehicle tax on motor vehicles) have not been accepted.

2.7.5.5 Other Measures to Improve the Financial Condition of Municipalities

In Andhra Pradesh, certain internal and external measures are recommended. An interesting observation is that the suggestion on preventing the government from taking decisions on matters related to taxation has been accepted. In Goa, the state government has accepted that local bodies should make an effort towards additional resource mobilization in order to increase the level of basic services and pace of development. In Gujarat, most recommendations falling in this category have been accepted. Some of these are concerned with: depositing a proportion of tax by ULBs for improving basic facilities; transfer of a proportion of funds to local bodies by the District Planning Boards and the criteria for distribution among each type of local body; control over the borrowing powers of ULBs and a periodic review of outstanding dues; rebate on interest to ULBs repaying loan on time; increase in per capita grant (10th Finance Commission) to local bodies due to increase in population; and review of tax demand by relevant authorities. In Haryana, the waiver of outstanding amount against ULBs has been accepted and implemented. In Himachal Pradesh, the recommendation on raising resources by ULBs, which are exclusively their responsibility, has been accepted, but the local bodies have not shown adequate sincerity towards resource mobilization. Regarding the fixation of rates in respect of taxes and levies, the state government has notified the limits of rates. Further, steps have been taken to decentralize fiscal powers and to give more autonomy to ULBs for collection and levy of taxes, however, it is learnt that some ULBs are still resisting from imposition of house tax. In respect of loans, the state government has given permission to ULBs to negotiate for loans.

In Kerala, the proposal on making central government properties liable for property/building tax has been rejected by the eleventh Finance Commission.

Other recommendations related to: replacement of the policy of fixed rates; fixation of minimum rates; distribution of central finance commission grant to ULBs on a per capita basis; creation of an urban pool, etc., have been accepted. Information on the status of implementation shows that in respect of some items mentioned above: rules and byelaws are yet to be issued; and only a rural pool has been created. In Rajasthan, recommendations have been made on: development of a system for mid-term appraisal of municipal finance; levy of taxes on those sectors (namely markets, health institutions, restaurants, other commercial and industrial establishments) which strain municipal services; revision of rates of fines; penalties, charges, fees, etc., by state government and ULBs; review of revenue efforts of most ULBs; and maintenance of accounts and audit of ULBs. The state government has accepted these recommendations.

In Tamil Nadu, the suggestion on creation of an equalization fund and an incentive fund has been accepted. Accepted recommendations on strengthening municipal finances in Uttar Pradesh include: initiation of a special drive by ULBs for recovery of dues and ensuring liquidation of their outstanding liabilities; conversion of loans in respect of certain schemes into grants; common format for budget estimates; assigning responsibility of audit of accounts of ULBs to the Accountant General; release of funds to ULBs on the basis of their performance; and amendments in Municipal Acts in order to enable ULBs to levy various taxes. The recommendation on setting up of a corporation for leveraging funds and subsidizing interest rate on non-remunerative schemes has not been accepted. In Delhi, the government has accepted recommendations on: additional resource mobilization by ULBs (i.e., MCD and NDMC); and consolidation of MCD loan into a single loan of 20-year duration. However, the suggestion to monitor the utilization of fund provided for operation and maintenance expenditure of existing assets of MCD has not been accepted.

2.7.5.6 Other Recommendations for Strengthening Municipal Governance

The Finance Commissions of Andhra Pradesh, Gujarat, Orissa, Rajasthan, Tamil Nadu, Uttaranchal and Uttar Pradesh have given importance to **devolution of functions, functionaries and powers** along with a transfer of funds. In Andhra Pradesh, the state Government has accepted the recommendation, but it is pointed out that this cannot be implemented immediately, since the quantum of financial devolution has to be examined carefully in relation to the delegation of functions. In the SFC Report of Rajasthan, it is mentioned that the recommendation has been accepted and implemented.

Emphasis is given on a careful **monitoring and review of SFC recommendations** by the Finance Commissions of Andhra Pradesh, Assam, Himachal Pradesh, Kerala, Punjab and Rajasthan. In Andhra Pradesh and Himachal Pradesh, the recommendation has been accepted. Kerala Government has taken steps to constitute a special cell in the Finance Department for this purpose and it is further recommended that the cell should be revamped and assigned the task of regular monitoring of finances.

In the states of Assam, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu and Uttar Pradesh, the **development and maintenance of a database on municipal finance** is recommended. In addition, emphasis is also given on development of a Management Information System/Computerisation of data in the states of Haryana, Punjab, Rajasthan and Uttaranchal. As per the SFC reports, some progress has been achieved, however, much remains to be done.

Conduct of detailed **studies on the finances of local bodies** (covering areas such as tax potential, sources of additional resource mobilisation, tax structures, user charges, cess, etc), their **organisational structure**, etc., is recommended by the Finance Commissions of Goa, Himachal Pradesh, Kerala, Rajasthan and Uttar Pradesh. The State Governments of Goa and Rajasthan have accepted the

suggestion, however, adequate information is not available on the implementation status.

Participation of the community and the private sector, especially in the delivery of urban services is being emphasised in the states of Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. The information on Rajasthan reveals that in Jaipur and Kota, non-government organisations have been involved in urban services delivery.

In a number of states, it is recommended that **training programmes for municipal official and non-officials** (i.e., elected representatives) should be organised to improve their efficiency and attitude, and that such training should be imparted by technical, non-profit and autonomous institutions. This suggestion is accepted in the states of Haryana, Karnataka, Maharashtra, Manipur, Orissa, Rajasthan, Tamil Nadu and Uttaranchal. In Rajasthan, various programmes are being conducted by the Rajasthan Institute of Public Administration. It is reported that due to a shortage of funds, the Directorate of Local Bodies is unable to take up new training programmes.

2.8 COMPOSITION AND FUNCTIONING OF DISTRICT PLANNING COMMITTEES

Article 243-ZD of the 74th Amendment Act provides for constitution of a District Planning Committee (DPC) in every state at the district level to consolidate the plans prepared by the panchayats and municipalities in the district and to prepare a draft development plan for the district as a whole. In this regard, the state legislature has been empowered to make provisions with respect to the composition of DPCs, manner in which seats shall be filled in such committees, functions to be assigned and manner in which the chairpersons of such committees shall be chosen.

State-wise information on the number and composition of district planning committees (DPCs) is given in Table 2.14 and in Annexure 9 (see Volume/Part II – C of the report). The data show that DPCs have been constituted in a total of 12 states of India. These include Arunachal Pradesh, Assam, Bihar, Chhatisgarh, Haryana, Karnataka, Kerala, Madhya Pradesh, Orissa, Rajasthan, Tamil Nadu and West Bengal.

It may be observed from the table that the members of DPCs vary among the states. They generally comprise the minister-in-charge of district, mayor of corporation, chairperson of council, chairperson of zilla parishad/panchayat, elected members of local bodies (both rural and urban), special invitee members (i.e., MPs, MLAs, MLCs), nominated members, divisional commissioner, deputy commissioner, additional deputy commissioner, district collector, district planning officer, district statistical officer, etc.

Insofar as the functioning of DPCs is concerned, it is understood that in Karnataka, Kerala and Tamil Nadu, DPCs have been constituted and technically they are functioning. However, it is learnt that in Karnataka they have not been functioning as expected. In fact, Kerala is the only state in the south where DPCs are active and functional. In the case of Madhya Pradesh, it is learnt that the DPC has no executive powers. In Chhatisgarh, the DPCs are not functioning at all and no meetings of DPCs are being held.

Table 2.14: State-wise Information on Functioning of District Planning Committees in India

S. No.	Name of State/UT	Number of DPCs	Composition of DPCs
1	Andhra Pradesh	0	
2	Arunachal Pradesh #	✓	
3	Assam	✓	
4	Bihar	✓ (38)	No action taken so far to select members
5	Chhatisgarh	✓	Elected members of local bodies, nominated members, minister-in-charge of district, district collector, special invitee members (MPs, MLAs, etc.)
6	Delhi	0	
7	Goa	0	
8	Gujarat	0	
9	Haryana	✓ (19)	Elected members of local bodies, divisional commissioner, deputy commissioner, additional deputy commissioner, district planning officer, district statistical officer, special invitee members (MPs, MLAs, etc.)
10	Himachal Pradesh	0	
11	Jharkhand	0	
12	Karnataka	✓	Elected members of local bodies, chairperson of zilla panchayat, mayor of corporation, chairperson of council, special invitee members (MPs, MLAs, MLCs, etc.)
13	Kerala	✓	Elected members of local bodies, special invitee members (MPs, MLAs, etc.)
14	Madhya Pradesh	✓	Elected members of local bodies, nominated members, minister-in-charge of district, district collector, special invitee members (MPs, MLAs, etc.)
15	Maharashtra	0	
16	Manipur		
17	Meghalaya @		
18	Mizoram @ #		
19	Nagaland @		
20	Orissa	✓ (30)	Elected members of local bodies, nominated members, district collector, etc.
21	Punjab	0	
22	Rajasthan	✓	Total 25 members: elected members of local bodies, nominated members, pramukh of zilla parishad, chief planning officer of zilla parishad
23	Sikkim #		
24	Tamil Nadu	✓	Elected members of local bodies, chairman of district panchayat, mayor of corporation and district collector
25	Tripura	0	
26	Uttaranchal	0	
27	Uttar Pradesh		DPC Act prepared but not yet made functional
28	West Bengal	✓ (18)	Elected members of local bodies, appointed members by state government, sabhapati of zilla parishad, district magistrate

Notes:

1. # - There are no municipalities in the state.
2. @ - The 74th Amendment Act provisions have not been applied to certain Scheduled Areas and the Tribal Areas of India.
3. Tick mark in the table indicates that DPCs have been constituted.
4. Blank spaces in the table indicate that data are not available.

2.9 CONSTITUTION AND FUNCTIONING OF METROPOLITAN PLANNING COMMITTEES

Article 243-ZE of the 74th Amendment Act provides for constitution of a Metropolitan Planning Committee (MPC) in every metropolitan area to prepare a draft development plan for the metropolitan area as a whole. In this regard, the state legislature has been empowered to make provisions with respect to the composition of MPCs, manner in which seats shall be filled in such committees, functions to be assigned, and manner in which the chairpersons of such committees shall be chosen.

State-wise information on the number and composition of metropolitan planning committees (MPCs) is given in Table 2.15 and in Annexure 9 (see Volume/Part II – C of the report). The data show that such committee has been constituted only in the state of West Bengal.

The Kolkata metropolitan planning committee (KMPC) comprises 60 members, including chief minister of state, minister-in-charge of municipal affairs and urban development, elected members of local bodies and nominated members. Of the 60 members, 2/3 members are elected and 1/3 are nominated. Chief Minister of the state is the Chairman of KMC and the Minister-in-charge of Municipal Affairs and Urban Development Department of the state is the Vice-Chairman. Kolkata Metropolitan Development Authority (KMDA) is the technical secretariat of KMPC and Secretary, KMDA is the Secretary of KMPC.

Table 2.15: State-wise Information on Functioning of Metropolitan Planning Committees

S. No.	Name of State/UT	Number of MPCs	Composition of MPCs
1	Andhra Pradesh	0	
2	Arunachal Pradesh #		
3	Assam	0	
4	Bihar	0	
5	Chhatisgarh	0	
6	Delhi	0	
7	Goa	0	
8	Gujarat	0	
9	Haryana	0	
10	Himachal Pradesh	0	
11	Jharkhand	0	
12	Karnataka	0	
13	Kerala	0	
14	Madhya Pradesh	0	
15	Maharashtra	0	
16	Manipur		
17	Meghalaya @		
18	Mizoram @ #		
19	Nagaland @		
20	Orissa	0	
21	Punjab	0	
22	Rajasthan	0	
23	Sikkim #		
24	Tamil Nadu	0	
25	Tripura	0	
26	Uttaranchal	0	
27	Uttar Pradesh	0	
28	West Bengal	✓ (1)	Total 60 members: elected members of local bodies, nominated members, chief minister of state, minister-in-charge of municipal affairs and urban development

Notes:

1. # - There are no municipalities in the state.
2. @ - The 74th Amendment Act provisions have not been applied to certain Scheduled Areas and the Tribal Areas of India.
3. Blank spaces in the table indicate that data are not available.

2.10 AREAS FOR FURTHER REFORMS AND IMPROVEMENT

State-wise information on the areas identified for further reforms and improvement is given in Table 2.16 and in Annexure 10 (see Volume/Part II – C of the report). It may be stated that there are a number of areas, which are common in respect of most states. These are: financial reforms (including property tax, accounting – double entry, issuance of bonds, rationalisation of stamp duty, levy of reasonable user charges); private sector participation in service delivery, contracting of services, computerisation of municipal records, training and capacity building, functional domain of ULBs, etc.

Table 2.16: Areas for Further Reforms and Improvement

S. No.	Name of State/UT	Areas
1	Andhra Pradesh	Preparation of broad guidelines for ULBs, population limit to be prescribed for each WCs, list of local functions and financial sources to be specified through constitutional amendment, representative & participatory character of DPCs & MPCs to be maintained, SFCs to be strengthened
2	Arunachal Pradesh #	
3	Assam	PT reforms, accounting reforms
4	Bihar	PT reforms, double entry accounting
5	Chhatisgarh	Reforms in functions of ULBs, financial practices, planning, training of officials & elected representatives, etc.
6	Delhi	PT reforms, double entry accounting, revision in rates of transfer duties
7	Goa	Reforms in functions of ULBs, financial practices, planning, training of officials & elected representatives, etc.
8	Gujarat	Reforms in functions of ULBs, financial practices, planning, training of officials & elected representatives, etc.
9	Haryana	Double entry accounting, levy of reasonable user charges, PT reforms, rationalization of stamp duty
10	Himachal Pradesh	Rationalization of stamp duty, PT reforms, levy of reasonable user charges, double entry accounting
11	Jharkhand	
12	Karnataka	Preparation of broad guidelines for ULBs, population limit to be prescribed for each WCs, list of local functions and financial sources to be specified through constitutional amendment, representative & participatory character of DPCs & MPCs to be maintained, SFCs to be strengthened
13	Kerala	Preparation of broad guidelines for ULBs, population limit to be prescribed for each WCs, list of local functions and financial sources to be specified through constitutional amendment, representative & participatory character of DPCs & MPCs to be maintained, SFCs to be strengthened
14	Madhya Pradesh	Reforms in functions of ULBs, financial practices, planning, training of officials & elected representatives, etc.
15	Maharashtra	Reforms in functions of ULBs, financial practices, planning, training of officials & elected representatives, etc.
16	Manipur	
17	Meghalaya @	
18	Mizoram @ #	
19	Nagaland @	
20	Orissa	
21	Punjab	Levy of reasonable user charges, property tax reforms, part privatization of civic services, double entry accounting
22	Rajasthan	Reforms in functions of ULBs, financial practices, planning, training of officials & elected representatives, etc.
23	Sikkim #	
24	Tamil Nadu	Preparation of broad guidelines for ULBs, population limit to be prescribed for each WCs, list of local functions and financial sources to be specified through constitutional amendment, representative & participatory character of DPCs & MPCs to be maintained, SFCs to be strengthened
25	Tripura	Rationalization of stamp duty, computerization of records, PT reforms, levy of user charges, double entry accounting
26	Uttaranchal	Contracting of services
27	Uttar Pradesh	PT reforms, computerization of municipal records, double entry accounting
28	West Bengal	PT reforms, accounting reforms, issue of municipal bonds, private sector participation

Notes:

1. # - There are no municipalities in the state.
2. @ - The 74th Amendment Act provisions have not been applied to certain Scheduled Areas and the Tribal Areas of India.
3. Blank spaces in the table indicate that data are not available.

3 SUMMARY AND CONCLUSIONS

A review of the implementation status of various mandatory and discretionary provisions of the Constitution (74th Amendment) Act has been presented in chapter 2 of this report. This review has thrown light on the performance of different state governments on the compliance/implementation of the Act provisions.

An attempt has been made to tabulate the state-wise compliance of the 74th Amendment Act provisions (see Table 3.1). It may be noted that some important provisions of the Act have been included in the table. These are: constitution of ULBs; reservation of seats in ULBs, regular conduct of elections, constitution of WCs, DPCs, MPCs and SFCs. Some other important provisions, such as devolution of powers and functions to ULBs, have not been included in the table due to a lack of adequate information. The information provided in Table 3.1 below shows that some states have performed better than others. An important observation is that while there has been full compliance in respect of provisions, such as constitution of three types of ULBs, reservation of seats, and constitution of SFCs, the same cannot be said for other provisions, namely constitution of Wards Committees, District Planning Committees and Metropolitan Planning Committees. It may be stated that the state of West Bengal has shown full commitment and a high compliance of the provisions.

Table 3.1: State-wise Compliance of the 74th Amendment Act Provisions

S. No.	State/UT	Constitution of ULBs	Reservation of Seats	Regular Conduct of Elections	Constitution of WCs	Constitution of DPCs	Constitution of MPCs	Constitution of SFCs
1	Andhra Pradesh	✓	✓	✓	✓			✓
2	Arunachal Pradesh#					✓		✓
3	Assam	✓	✓	✓		✓		✓
4	Bihar	✓	✓	✓		✓		✓
5	Chhatisgarh	✓	✓		✓	✓		✓
6	Delhi	✓	✓	✓	✓			✓
7	Goa	✓	✓	✓				✓
8	Gujarat	✓	✓	✓				✓
9	Haryana	✓	✓	✓		✓		✓
10	Himachal Pradesh	✓	✓	✓				✓
11	Jharkhand	✓	✓					✓
12	Karnataka	✓	✓	✓	✓	✓		✓
13	Kerala	✓	✓	✓	✓	✓		✓
14	Madhya Pradesh	✓	✓	✓	✓	✓		✓
15	Maharashtra	✓	✓	✓	✓			✓
16	Manipur	✓	✓	✓				✓
17	Meghalaya @							
18	Mizoram @ #							
19	Nagaland @							
20	Orissa	✓	✓	✓		✓		✓
21	Punjab	✓	✓	✓				✓
22	Rajasthan	✓	✓	✓		✓		✓
23	Sikkim #							✓
24	Tamil Nadu	✓	✓	✓	✓	✓		✓
25	Tripura	✓	✓	✓				✓
26	Uttaranchal	✓	✓	✓				✓
27	Uttar Pradesh	✓	✓	✓				✓
28	West Bengal	✓	✓	✓	✓	✓	✓	✓

Notes:

1. # - There are no municipalities in the state.

2. @ - The 74th Amendment Act provisions have not been applied to certain Scheduled Areas and the Tribal Areas of India.

3.1 STUDY FINDINGS

The major findings of the study are listed below:

- The total number of ULBs in 27 states and one UT of India is 3013. Uttar Pradesh has the highest number of ULBs, i.e., 628, followed by Madhya Pradesh (334), Maharashtra (247), Karnataka (222), etc. Among the states, the total number of ULBs is the lowest in Tripura, i.e., 13. Municipal corporations exist in all states except in Manipur and Tripura (see Table 2.1).

The total number of Municipal Corporations, Municipal Councils and Nagar Panchayats in the states/UT under study is 111, 1537 and 1365 respectively. Maharashtra has the highest number of corporations, i.e., 22, which is followed by Madhya Pradesh (14) and Uttar Pradesh (12). Data on municipal councils show that their numbers are high in Maharashtra, Uttar Pradesh, Tamil Nadu, Gujarat, Karnataka, West Bengal and Andhra Pradesh. The number of nagar panchayats is high in Uttar Pradesh, Madhya Pradesh and Rajasthan.

- It is obvious that the number of councilors in the three types of ULBs is high in the larger states of the country. The data confirm the fact that seats have been reserved for some sections of the society (i.e. SC, ST, BC, women) in municipalities throughout India. State-wise data on councilors show that: in municipal corporations, total number is high in Maharashtra, Uttar Pradesh, and Madhya Pradesh; in municipal councils, total number is high in Maharashtra, Uttar Pradesh and Tamil Nadu; and in nagar panchayats, the total number is high in Uttar Pradesh, Madhya Pradesh, Bihar and Karnataka (see Table 2.2).
- The state governments have amended their municipal Acts as per guidelines given in Article 243 – T of the 74th Amendment Act and provided for reservation for the scheduled castes, scheduled tribes, and women in ULBs. In the states of Assam, Bihar, Jharkhand, Uttaranchal and Uttar Pradesh, seats have also been reserved for the backward classes.
- The elected heads (Mayor in Corporations and Chairman in Councils) are chosen in two ways – (a) elected from amongst the councilors (i.e., indirect election); and (b) elected from amongst eligible voters in the urban area (i.e., direct election). In the Corporations of Bihar and West Bengal, Mayor is elected from amongst the councillors. In Jharkhand, Uttaranchal, and Uttar Pradesh, the Mayor is chosen by direct election. Similarly, in municipal councils of Assam, Bihar, Manipur, Sikkim, Tripura and West Bengal, the chairman is elected from amongst the councillors. The chairman is chosen by

direct election in Uttaranchal and Uttar Pradesh. Councillors in the two types of ULBs are chosen by direct election (see Table 2.4).

- Except the states of Chhatisgarh and Jharkhand, elections to municipalities in the other states are being conducted regularly. In the large states (such as Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Rajasthan, etc.), elections are held in stages due to a large number of ULBs. Elections are also conducted as and when a local body is constituted. For example in Bihar, elections were conducted in three newly constituted Nagar Panchayats during the year 2005 (see Table 2.5).
- A review of relevant sections pertaining to the duties of Municipal Corporations and Municipal Councils given in the Municipal Acts of states under study shows that the 18 functions given in the twelfth schedule have been included in the list of duties of ULBs. Furthermore, activity mapping of the 18 functions among the three tiers of ULBs is currently underway, i.e., a number of activities have been identified within each function and actions are being taken for implementation. Some functions have been transferred to the ULBs and are being performed by them in consultation with the respective state government departments. Some other functions are being performed exclusively by the concerned state department (see Table 2.6). It is also learnt that in some states (for example Uttar Pradesh and West Bengal), some functions listed in the twelfth schedule (such as town planning, urban poverty alleviation, provision of urban amenities, vital statistics, etc.) were already being performed by the ULBs before the enactment of the 74th Amendment Act.
- A review of Municipal Acts of the states under study shows that the ULBs were already empowered to levy various taxes, fees and tolls before the enactment of the 74th Amendment Act (see Table 2.7 and 2.8).
- The Municipal Acts of the states under study show that provisions related to the constitution of WCs have been incorporated. It is also learnt that rules for the constitution, composition and functioning of wards committees have been formed by the state legislatures of Uttar Pradesh and West Bengal. Available

data show that WCs have been constituted in a total of 8 states and one UT of India. These include Andhra Pradesh, Chhatisgarh, Delhi, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Tamil Nadu and West Bengal. Generally, members of WCs comprise the elected ward representatives (i.e., councillors) and nominated members. In the states of Karnataka, Kerala, and Maharashtra, a higher level of participation is observed, where members of NGOs, CBOs, neighbourhood groups, heads of educational institutions, persons from agriculture, industry, health, trade unions, etc., have also been associated. On the other hand, the deputy commissioner is the head of the executive wing of the WCs. WCs have been assigned several responsibilities, such as maintenance of civic services, revenue collection/assistance in tax collection, drafting of annual budget, slum improvement, public grievances, formulation and execution of development schemes, monitoring the implementation of development programmes, recommendations on proposals regarding estimates of expenditure, granting approval and financial sanction to plans and municipal works, scrutiny of monthly progress report, etc. Some information is available on the functioning of wards committees in different states of India. It is learnt that in the southern states, they are functional in Tamil Nadu and in Kerala. In Andhra Pradesh and Karnataka, they are practically not functional except in Hyderabad and in Bangalore municipal corporations. In the case of Bangalore, it is further learnt that they are neither meeting regularly, nor working effectively. It may be stated that Kerala is a unique example, where WCs have been constituted in every ward and in towns with a population of more than a lakh. In the case of Chhatisgarh, it is learnt that although WCs have been constituted in Raipur Municipal Corporation, no responsibilities have been assigned to them and no budgetary allocation is being given. In fact, they are completely non-functional.

- In response to the 74th Amendment Act provisions, SFCs have been constituted in all states under study except the three north-eastern states of Meghalaya, Mizoram and Nagaland (see Table 2.10). This is due to the

reason that Article 243 – ZC of the 74th Amendment Act and Article 243 – M (2) of the 73rd Amendment Act do not allow state governments to apply Part IX (The Panchayats) and Part IX – A (The Municipalities) to certain scheduled areas and the tribal areas of the country. It may be stated that although the major thrust is given by SFCs on strengthening the financial condition of ULBs, there is also an emphasis on improving their overall management capabilities. It is observed from a review of both the first and the second ATRs that the proportion of recommendations accepted (either fully, partly or in a modified form) is much higher than those which have not been accepted (see Table 2.12). It may be mentioned here that the decision to accept or reject a recommendation lies with the state government and is based on a number of factors, such as the financial condition of the state/local government, priority areas of concern, etc. The data given in Table 2.12 show that acceptance of first SFC recommendations is between 80 to 100 per cent in Tripura, Uttaranchal, Uttar Pradesh and West Bengal and less than 50 per cent in Assam and Orissa.

- DPCs have been constituted in a total of 12 states of India (Table 2.14). These include Arunachal Pradesh, Assam, Bihar, Chhatisgarh, Haryana, Karnataka, Kerala, Madhya Pradesh, Orissa, Rajasthan, Tamil Nadu and West Bengal. The members of DPCs vary among the states. They generally comprise the minister-in-charge of district, mayor of corporation, chairperson of council, chairperson of zilla parishad/panchayat, elected members of local bodies (both rural and urban), special invitee members (i.e., MPs, MLAs, MLCs), nominated members, divisional commissioner, deputy commissioner, additional deputy commissioner, district collector, district planning officer, district statistical officer, etc. Insofar as the functioning of DPCs is concerned, it is understood that in Karnataka, Kerala and Tamil Nadu, DPCs have been constituted and technically they are functioning. However, it is learnt that in Karnataka they have not been functioning as expected. In fact, Kerala is the only state in the south where DPCs are active and functional. In the case of Madhya Pradesh, it is learnt that the DPC has no executive powers. In

Chhatisgarh, the DPCs are not functioning at all and no meetings of DPCs are being held.

- MPC has been constituted only in the state of West Bengal (Table 2.15). The Kolkata metropolitan planning committee (KMPC) comprises 60 members, including the chief minister of state, minister-in-charge of municipal affairs and urban development, elected members of local bodies and nominated members. Of the 60 members, 2/3 members are elected and 1/3 are nominated. Chief Minister of the state is the Chairman of KMC and the Minister-in-charge of Municipal Affairs and Urban Development Department of the state is the Vice-Chairman. Kolkata Metropolitan Development Authority (KMDA) is the technical secretariat of KMPC and Secretary, KMDA is the Secretary of KMPC.
- In most states reforms have been suggested to overcome the problems faced by ULBs. These include financial reforms (including property tax, accounting – double entry, issuance of bonds, rationalisation of stamp duty, levy of reasonable user charges); private sector participation in service delivery, contracting of services, computerisation of municipal records, training and capacity building, etc. (see Table 2.16).

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Annexure - I

**THE CONSTITUTION
SEVENTY-FOURTH AMENDMENT
ACT 1992
ON MUNICIPALITIES**

**MINISTRY OF URBAN DEVELOPMENT
GOVERNMENT OF INDIA
NEW DELHI**

THE CONSTITUTION (SEVENTY-FOURTH AMENDMENT) ACT, 1992.

AN ACT

further to amend the Constitution of India

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:-

1. (1) This Act may be called the Constitution (Seventy-fourth Amendment) Act, 1992.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. After Part IX of the Constitution, the following Part shall be inserted, namely :-

Short title and commencement

Insertion of new Part IXA.

'PART IXA'

THE MUNICIPALITIES

- 243P. In this Part, unless the context otherwise requires —
- (a) "Committee" means a Committee constituted under article 243S;
 - (b) "District" means a District in a State;
 - (c) "Metropolitan Area" means an area having a population of ten lakhs or more comprised in one or more districts and consisting of two or more Municipalities or Panchayats or other contiguous areas, specified by the Governor by public notification to be a Metropolitan Area for the purposes of this Part;
 - (d) "Municipal Area" means the territorial area of a Municipality as is notified by the Governor;
 - (e) "Municipality" means an institution of self-government constituted under article 243Q;
 - (f) "Panchayat" means a Panchayat constituted under article 243B;
 - (g) "Population" means the population as ascertained at the last preceding census of which the relevant figures have been published.

Definitions.

- 243Q. (1) There shall be constituted in every State —
- (a) a Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area;
 - (b) a Municipal Council for a smaller urban area; and
 - (c) a Municipal Corporation for a larger urban area, in accordance with the provisions of this Part :
Provided that a Municipality under this clause may not be constituted in such urban area or part

Constitution of Municipalities.

thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township.

- (2) In this article, "a transitional area", "a smaller urban area" or "a larger urban area" means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Part.

243R. (1) Save as provided in clause (2), all the seats in a Municipality shall be filled by persons chosen by direct election from the territorial constituencies in the Municipal area and for this purpose each Municipal area shall be divided into territorial constituencies to be known as wards.

- (2) The Legislature of a State may, by law, provide —
- (a) for the representation in a Municipality of —
- (i) persons having special knowledge or experience in Municipal administration;
 - (ii) the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area;
 - (iii) the members of the Council of States and the members of the Legislative Council of the State registered as electors within the Municipal area;
 - (iv) the Chairpersons of the Committees constituted under clause (5) of article 243S

Provided that the persons referred to in paragraph (i) shall not have the right to vote in the meetings of the Municipality;

- (b) the manner of election of the Chairperson of a Municipality.

243S. (1) There shall be constituted Wards Committees, consisting of one or more wards, within the territorial area of a Municipality having a population of three lakhs or more.

- (2) The Legislature of a State may, by law, make provision with respect to —

Composition of Municipalities.

Constitution and composition of Wards Committees, etc.

- (a) the composition and the territorial area of a Wards Committee;
- (b) the manner in which the seats in a Wards Committee shall be filled.
- (3) A member of a Municipality representing a ward within the territorial area of the Wards Committee shall be a member of that Committee.
- (4) Where a Wards Committee consists of —
 - (a) one ward, the member representing that ward in the Municipality; or
 - (b) two or more wards, one of the members representing such wards in the Municipality elected by the Members of the Wards Committee,
 shall be the Chairperson of that Committee.
- (5) Nothing in this article shall be deemed to prevent the Legislature of a State from making any provision for the constitution of Committees in addition to the Wards Committees.

243T.

- (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes in the Municipal area or of the Scheduled Tribes in the Municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Municipality.
- (2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.
- (3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality.
- (4) The office of Chairpersons in the Municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.
- (5) The reservation of seats under clauses (1) and (2) and the reservation of office of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.
- (6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of

Reservation of Seats.

seats in any Municipality or office of Chairpersons in the Municipalities in favour of backward class of citizens.

- | | | | | | |
|-------|-----|---|------------------|-----------|-------------------------|
| 243U. | (1) | Every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for live years from the date appointed for its first meeting and no longer :
Provided that a Municipality shall be given a reasonable opportunity of being heard before its dissolution. | Duration | of | Municipalities,
etc. |
| | (2) | No amendment of any law for the time being in force shall have the effect of causing dissolution of a Municipality at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1). | | | |
| | (3) | An election to constitute a Municipality shall be completed —
(a) before the expiry of its duration specified in clause (1);
(b) before the expiration of a period of six months from the date of its dissolution :
Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Municipality for such period. | | | |
| | (4) | A Municipality constituted upon the dissolution of Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under clause (1) had it not been so dissolved. | | | |
| 243V. | (1) | A person shall be disqualified for being chosen as, and for being, a member of a Municipality —
(a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned :
Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;
(b) if he is so disqualified by or under any law made by the Legislature of the State. | Disqualification | for | membership. |
| | (2) | If any question arises as to whether a member of a Municipality has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide. | | | |
| 243W. | | Subject to the provisions of this Constitution, the Legislature of State may, by law, endow — | Powers, | authority | & |

- (a) The Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provision for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to —

**responsibilities
of
Municipalities,
etc.**

- (i) the preparation of plans for economic development and social justice;
- (ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matter listed in the Twelfth Schedule;

- (b) The Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.

243X. The Legislature of a State may, by law —

- (a) authorise a Municipality to levy, collect and appropriate such taxes, duties tolls and fees in accordance with such procedure and subject to such limits;
- (b) assign to a Municipality such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;
- (c) provide for making such grants-in-aid to the Municipalities from the Consolidated Fund of the State; and
- (d) provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Municipalities and also for the withdrawal of such moneys therefrom, as may be specified in the law.

**Power to
impose taxes
by, and
Funds of, the
Municipalities.**

243Y.

- (1) The Finance Commission constituted under article 243I shall also review the financial position of the Municipalities and make recommendations of the Governor as to —

**Finance
Commission.**

- (a) the principles which should govern -
 - (i) the distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Municipalities at all levels of their respective shares of such proceeds;
 - (ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Municipalities;
 - (iii) the grants-in-aid to the Municipalities from the Consolidated Fund of the State;

- (b) the measures needed to improve the financial position of the Municipalities;
 - (c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities.
 - (2) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.
- 243Z. The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Municipalities and the audit of such accounts. **Audit of accounts of Municipalities.**
- 243ZA. (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipalities shall be vested in the State Election Commission referred to in article 243K. **Elections to the Municipalities.**
- (2) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to or in connection with, elections to the Municipalities.
- 243ZB. The provisions of this Part shall apply to the Union Territories and shall, in their application to a Union Territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union Territory appointed under article 239 and references to the Legislature or the Legislative Assembly of a State were references in relation to a Union Territory having a Legislative Assembly, to that Legislative Assembly. **Application to Union Territories.**
- Provided that the President may, by public notification, direct that the provisions of this Part shall apply to any Union Territory or part thereof subject to such exceptions and modifications as he may specify in the notification.
- 243ZC. (1) Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of article 244. **Part not to apply to certain areas.**
- (2) Nothing in this Part shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under any law for the time being in force for the hill areas of the district of Darjeeling in the State of West Bengal.
- (3) Notwithstanding anything in this Constitution, Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be

an amendment of this Constitution for the purposes of article 368.

- 243ZD. (1) There shall be constituted in every State at the district level a District Planning Committee to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole.
- (2) The Legislature of a State may, by law, make provision with respect to —
- (a) the composition of the District Planning Committees;
 - (b) the manner in which the seats in such Committees shall be filled;
- Provided that not less than four-fifths of the total number of members of such Committee shall be elected by, and from amongst, the elected members of the Panchayat at the district level and of the Municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district;
- (c) the functions relating to district planning which may be assigned to such Committees;
 - (d) the manner in which the Chairpersons of such Committees shall be chosen.
- (3) Every District Planning Committee shall, in preparing the draft development plan —
- (a) have regard to —
 - (i) matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure & environmental conservation;
 - (ii) the extent and type of available resources whether financial or otherwise;
 - (b) consult such institutions and organisations as the Governor may, by order, specify.
- (4) The Chairperson of every District Planning Committee shall forward the development plan, as recommended by such committee, to the Government of the State.
- (2) The Legislature of a State may, by law, make provision with respect to —
- (a) the composition of the Metropolitan Planning Committees;
 - (b) the manner in which the seats in such Committees shall be filled;
- Provided that not less than two-thirds of the members of such Committee shall be elected by, and from amongst, the elected members of the Municipalities and Chairpersons of the Panchayats

Committee for district planning.

- in the Metropolitan area in proportion to the ratio between the population of the Municipalities and of the Panchayats in that area;
- (c) The representation in such Committees of the Government of India and the Government of the State and of such organisations and institutions as may be deemed necessary for carrying out of functions assigned to such Committees;
 - (d) the functions relating to planning and coordination for the Metropolitan area which may be assigned to such Committees;
 - (e) the manner in which the Chairpersons of such Committees shall be chosen.
- (3) Every Metropolitan Planning Committee shall, in preparing the draft development plan —
- (a) have regard to -
 - (i) the plans prepared by the Municipalities and the Panchayats in the Metropolitan area;
 - (ii) matters of common interest between the Municipalities and the Panchayats, including co-ordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;
 - (iii) the overall objectives and priorities set by the Government of India and the Government of the State;
 - (iv) the extent and nature of investments likely to be made in Metropolitan area by agencies of the Government of India and of the Government of the State and other available resources whether financial or otherwise;
 - (b) consult such institutions and organisations as the Governor may, by order, specify.
- (4) The Chairperson of every Metropolitan Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

243ZF. Notwithstanding anything in this Part, any provision of any law relating to Municipalities in force in a State immediately before the commencement of the Constitution (Seventy-fourth Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repeated by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier :

Continuance of existing laws and Municipalities.

Provided that all the Municipalities existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

- 243ZG. Notwithstanding anything in this Constitution —
- (a) the validity of any law relating to the delimitation of constituencies of the allotment of seats to such constituencies, made or purporting to be made under article 243ZA shall not be called in question in any court;
 - (b) no election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State;

3. In clause (3) of article 280 of the Constitution, sub-clause (c) shall be lettered as sub-clause (d) and before sub-clause (d) as so relettered, the following sub-clause shall be inserted, namely :-

**Amendment of
article 280.**

"(c) the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Municipalities in the State on the basis of the recommendations made by the Finance Commission of the State;"

4. After the Eleventh Schedule to the Constitution, the following Schedule shall be added, namely :-

**Addition of
Twelfth
Schedule.**

"TWELFTH SCHEDULE (Article 243W)

1. Urban Planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.
7. Fire services.
8. Urban forestry, protection of environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.

10. Slum improvement and upgradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds, cremations, cremation grounds and electric crematoriums.
15. Cattle pounds; prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries."

**EXTRACT OF ARTICLE 243I & 243K FROM CLAUSE (2) OF
THE CONSTITUTION (73RD AMENDMENT) ACT, 1992
WHICH ARE REFERRED TO IN THE CONSTITUTION
(74TH AMENDMENT) ACT, 1992.**

- 243I. (1) The Governor of a State shall, as soon as may be within one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992, and thereafter at the expiration of every fifth year, constitute a Finance Commission to review the financial position of the Panchayats and to make recommendations to the Governor as to —
- (a) the principles which should govern -
 - (i) the distribution between the State and the Panchayats of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between them under this Part and the allocation between the Panchayats at all levels of their respective shares of such proceeds;
 - (ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Panchayats;
 - (iii) the grants-in-aid to the Panchayats from the Consolidated Fund of the State.
 - (b) the measures needed to improve the financial position of the Panchayats;
 - (c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Panchayats.
- (2) The Legislature of a State may, by law, provide for the composition of the Commission, the qualifications which shall be requisite for appointment as members

**Constitution of
Finance
Commission to
review financial
position.**

thereof and the manner in which they shall be selected.

- (3) The Commission shall determine their procedure and shall have such powers in the performance of their functions as the Legislature of the State may, by law, confer on them.
- (4) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

- 243K. (1) The Superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.
- (2) Subject to the provisions of any law made by the Legislature of a State, the conditions of service and tenure of office of the State Election Commissioner shall be such as the Governor may by rule determine : Provided that the State Election Commissioner shall not be removed from his office except in like manner and on the like grounds as Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.
 - (3) The Governor of a State shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by Clause (1).
 - (4) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with elections to the Panchayats.

Elections to the Panchayats.